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THE NATIVE PROBLEM IN AFRICA



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THE NATIVE PROBLEM IN AFRICA

BY

RAYMOND LESLIE BUELL

FORMERLY ASSISTANT PROFESSOR OF GOVERNMENT
AT HARVARD UNIVERSITY

VOLUME I

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PREFACE

This report to the Committee of International Research of Harvard University and Radcliffe College is based upon fifteen months' investigation abroad. Leaving the United States in June, 1925, I visited the Union of South Africa, Portuguese East Africa, Basutoland, Southern Rhodesia, Northern Rhodesia, the Belgian Congo, Tanganyika, Zanzibar, Kenya, Uganda, French Equatorial Africa, the French Cameroons, Nigeria, the Gold Coast, French Togo, French West Africa, Liberia and Sierra Leone. I also visited the European capitals responsible for the administration of many of these territories and returned to the United States at the end of September, 1926. Upon instructions, I confined myself to the situation in French, British and Belgian territory and Liberia.

Africa is the one continent of the world where by the application of intelligence, knowledge and good will, it is not too late to adopt policies which will prevent the development of the acute racial difficulties which have elsewhere arisen, and the evils of which have been recognized only after they have come into existence. In the larger part of the continent of Africa the white man still has *carte blanche,* to avoid the mistakes of the past committed in other parts of the world if he has will and intelligence to do so. The purpose of this report is to set forth the problems which have arisen out of the impact of primitive peoples with an industrial civilization, and to show how and to what extent these problems are being solved by the governments concerned.

It is of course impossible for a fleeting traveller to subject an entire continent to any examination of value as long as he confines himself to travel impressions and personal views. In an effort to avoid these dangers, I have attempted to base the report upon a study of all available documents, which have been interpreted in the light of observations and especially of the consensus of opinion of the thousand or so residents on the spot with whom I talked, and who represented every point of view.

I am under a debt to a large number of people, in Africa, Europe and the United States, who obviously cannot be named, for information and other assistance. I am also under a debt to the Committee of International Research of Harvard University and Radcliffe College for placing every facility at my disposal for the completion of this report.

R. L. B.

New York City, December, 1927.

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SOUTH AFRICA

THE NATIVE PROBLEM IN AFRICA

SECTION I
SOUTH AFRICA

CHAPTER I

THE UNION

NUMEROUS and diversified as are the racial problems of the world, the color question in the Union of South Africa is unique. Perhaps the United States, with 12,000,000 negroes constituting a tenth of the total population, offers the closest parallel. But in South Africa, the non-European population outnumbers the white nearly four to one. As a result, the European population, just large enough to give a definite imprint to the country, is haunted by the fear of being eventually engulfed by the growing numbers and power of the natives. Both communities regard South Africa as their home. Both intend to make it their home in the future. The whites have no intention of surrendering the economic and political control which they now possess; while the blacks are coming to demand a greater share in the government and in the economic life. This conflict of economic and political interests is intensified, if indeed it is not caused, by the grim factor of race. So far in history, the gulf between white and black has seldom been bridged.

1. *A Little History*

South Africa has become the home of the European not only because of its wealth, but also because of its climate. Bathed by the breezes of three seas, and having throughout forty per cent of its area an elevation of more than 4000 feet, South Africa has a temperature cooler than that found in European countries located the same distance—22 to 35 degrees—from the equator. The center of this sub-continent is the Rand mining area, located in the High Veld which includes southern Transvaal and part of the Orange Free State. The city of Johannesburg resembling, in some ways, an American metropolis, lives a windy and frosty existence—some 6000 feet above sea-level.

Discovered in 1487, about the time Columbus discovered America, South Africa was occupied by the Dutch under Van Riebeek in 1652. While since then, America has become one of the largest and richest coun-

tries in the world, South Africa, during the same period, has acquired only one seventy-seventh as many whites as the United States.

Numerous reasons account for this striking difference in development. The area of South Africa is only a sixth of that of the United States.[1] While the United States has been under a single government, South Africa, until 1900, was divided between the two British colonies of Cape Colony and Natal on the one hand, and the two Boer republics, the Transvaal and the Orange Free State, on the other. But even more important is the fact that, unlike the United States, the white settlers of South Africa have been confronted with an overwhelming majority of relatively primitive inhabitants of the soil.

In defense of the European occupation of Africa, a number of English writers point to the occupation of North America by European colonists. If the occupation of the United States by European settlers who subjected the aboriginal inhabitants was justified, is not the occupation of Africa by Europeans similarly justified? The analogy is, however, far from perfect. While the continent of Africa to-day (excluding North Africa) is inhabited by at least a hundred million natives many of whom have a fixed idea of property in the land, that part of the continent of North America which is now the United States was, according to the best estimates, never occupied by more than a few hundred thousand Indians, most of whom were nomadic.[2]

In other words, the American continent was practically vacant.[3]

Moreover, the Europeans who occupied and developed the American continent did not rely upon primitive labor as the basis of their existence, as have the Europeans who have entered Africa. This is a fundamental difference, the importance of which will be realized only after an examination of the effect upon native and European life of an industrial system based upon primitive instead of upon European labor.

First colonized by the Dutch who imported slaves from their Eastern possessions—the descendants of whom are known as Cape Malays—the Cape of Good Hope passed to the British as spoils of war in 1814. Unable to tolerate the ways of Englishmen, the Boers, as the Dutch came to be called, started a great trek in 1833 which led to the establishment of independent

[1] The area of the Union of South Africa is 472,347 square miles; that of the mandate of South-West Africa is 322,450 square miles; that of the United States is 2,970,230 square miles.

[2] Livingston Farrand, *Basis of American History,* New York, 1904, p. 100.

[3] The Puritans who settled New England purchased their land from Indians. According to the Supreme Court of the United States, "friendly Indians were protected in the possession of the lands they occupied." Cf. M. F. Lindley, *The Acquisition and Government of Backward Territory in International Law,* London, 1926, pp. 338 ff.

governments in Natal, the Orange Free State, and the Transvaal. Following disturbances which the Boer authorities did not suppress, the Cape Government occupied Natal which in 1843 became a Crown Colony. Similar efforts of annexation having failed in the Orange Free State, the British Government recognized its independence in 1854.[4]

After signing a treaty with the British Government which promised not to interfere with the affairs of the Boers north of the Vaal, the Boers established an independent government in the Transvaal which came to be known as the South African Republic in 1858.[5]

During the next twenty years, the Republic engaged in a series of wars with Zulu and Bechuana chiefs, which produced such a régime of disorder that the British Government, to stop the bloodshed, annexed the Transvaal in 1877. But as a result of a revolt of the freedom-loving Boers, the British in the Pretoria Convention, in 1881, guaranteed the Transvaal Boers complete self-government on condition that their foreign relations should be controlled by the British Government. A British resident was to have a certain authority in regard to the protection of the natives; *i.e.,* no enactment specially affecting the natives could have any force without his consent.[6]

In 1884, another convention was signed at London which, according to the Boers, terminated British suzerainty—an interpretation which the English Government declined to accept. The treaty, however, did do away with the British Resident and all outside control over native affairs. Nevertheless, the Republic could not make treaties with any State, except the Orange Free State, nor with a native tribe, without the consent of the British Government.[7]

With the discovery of gold in the Transvaal, further difficulties arose over obstructions placed by the Boers in the way of developing the mines by foreign capital—obstructions which, according to the British Government, violated the provisions of the treaty of 1884.[8]

The eventual up-shot of these grievances was the Anglo-Boer War—

[4] The convention of Bloemfontein, February 23, 1854. E. Hertslet, *The Map of Africa by Treaty,* 2nd edition, London, 1896, p. 814. In 1876 another convention was signed at London settling boundaries, in which Great Britain paid the Free State 90,000 pounds for the abandonment of Free State claims to certain diamond areas. *Ibid.,* p. 818.

[5] The Sand River Convention, January 17, 1852; *Ibid.,* p. 839.

[6] Convention of August 3, 1881, G. W. Eybers, *Select Constitutional Documents Illustrating South African History,* 1795-1910, London, 1918, p. 455. The provisions of this Convention in regard to land are discussed in Vol. I, p. 74.

[7] *Ibid.,* p. 469.

[8] We have no time to go into Dr. Jameson's attempt to overthrow the Dutch Republic by his famous raid. Cf. Ian Colvin, *The Life of Jameson,* London, 1922, Vol. II, Ch. XXV, XXVI. Neither have we time to go into the causes of the Boer War.

the South African Republic and the Free State, bound by an alliance of 1889 amended in 1897, against the British Empire. After a stubborn defense, the Boers were obliged to surrender in the Peace of Vereeniging, May 1902, subject to the concession that the Dutch language would be taught in the public schools in the Transvaal and the Orange River Colony where the parents desired it, and would be used in the courts of law. The question of granting the franchise to the natives was not to be decided until after the introduction of self-government.[9]

After a transitional period marked by the partial restoration of racial goodwill, the Crown granted responsible government to both the Free State (1906) and the Transvaal (1907), subject to the restriction that the Governor should reserve any law imposing disabilities upon persons of non-European descent which did not apply to Europeans.[10] This provision did not, however, affect existing legislation. Likewise, the Governor was obliged to reserve any law providing for the introduction of contract labor from outside South Africa.[11]

In both cases, however, the franchise was restricted to "white" male British subjects.

Under the leadership of Lord Milner and General Louis Botha, efforts were made to bring about a federation of these four different colonies, each of which already had responsible government.[12] Perhaps the most serious problem which had to be solved was that of native policy. Largely because of the fact that Natal and the Cape of Good Hope had always been British colonies, little frankly discriminatory legislation against the blacks was on their statute books.

On the other hand, the Boers of the Transvaal and the Free State had not been subject to the control of a European colonial office. Engaged with the blacks in a constant struggle for existence, they sincerely believed that the native was, in the eyes of God, inferior to the white man. The Grond-wet of 1858—the Transvaal constitution—frankly said that "The people desire to permit no equality between coloured people and the white

[9] Treaty of May 31, 1902, Eybers, *cited,* p. 345.

[10] These restrictions were modelled after those to which Natal was subjected in 1893. In Instructions to the Governor of Natal it was provided that the Governor should not assent to any Bill whereby persons not of European birth or descent may be subject to any disabilities to which persons of European birth or descent are not also subject. Eybers, *cited,* p. 212.

[11] Transvaal Constitution of December 6, 1906, *Statutory Rules and Orders,* 1906, p. 895, Art. XXXIX. Orange River Constitution of June 5, 1907, *Ibid.,* 1907, Art. XLI, p. 1165.

[12] The first move in this direction was taken by Sir George Grey in 1858. For the correspondence, cf. A. P. Newton, *The Unification of South Africa,* London, 1924, Vol. I, pp. 1-10.

inhabitants, either in Church or State.[13] The Orange Free State Constitution, 1854, limited the franchise to white persons.[14]

2. *The Union Government*

In 1903, an inter-colonial commission was appointed to study native affairs, with a view to arriving at a common understanding upon questions of native policy in view of the coming Federation. It made a number of recommendations, especially in regard to a limited representation of natives in the Legislature.[15] But in view of the divergent native policies of the four different colonies, the South Africa Act, 1909, establishing the Union, scarcely mentioned the native population. It merely provided that half of the eight senators nominated by the Government should be chosen on the "ground mainly of their thorough acquaintance . . . with the reasonable wants and wishes of the coloured races in South Africa." Members of the Senate and of the Assembly must, however, be of European descent. While parliament may by law prescribe voting qualifications for members of the Assembly, "no such law shall disqualify any person in the province of the Cape of Good Hope" who, under existing laws, is eligible to vote, "by reason of his race or colour only," unless the bill be passed by a two-thirds majority at a joint sitting of parliament.[16] On the other hand, the anti-color bar provision inserted in the constitutions of the Transvaal and the Free State in 1906-1907 were omitted from the Act of Union.[17] Legally, therefore, the position of the natives in these territories is less secure now than it was before the Union.

As a result of the Act of Union, the four colonies became provinces, each governed by an administrator and a provincial council, with power to make ordinances upon thirteen different subjects, subject to the veto of the Governor-General. Each province is entitled to receive a grant from the Union primarily for educational purposes; while it may also levy and collect certain local fees and taxes.[18] In view, however, of the unlimited

[13] Article 9, text in G. W. Eybers, *cited,* p. 364.

[14] Text in *Ibid.,* p. 286.

[15] *Report of the South African Native Affairs Commission,* 1903-1905, Cd. 2399, (1905) p. 70.

[16] Articles 24, (II) 35, (1). The schedule to the South Africa Act is discussed in Vol. I, p. 190. Article 147 of the Act provides that the control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall be vested in the Governor-General in Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, etc. In view of the fact that the Governor-General is now a figure-head, this article appears unimportant.

[17] These provisions led to a protest from a native delegation to the King.

[18] Financial Relations Act, *Statutes of the Union of South Africa,* 1913, p. 100. *Provincial Subsidies Act,* 1925, *ibid.,* p. 852. The subsidy now amounts to about 5,400,000 pounds.

legislative power of the Union parliament, the provincial councils have so little discretion and they expend so much money that their suppression is being advocated in some quarters.

In addition to a Governor-General appointed by the Crown,[19] the Union government consists of a prime minister and cabinet chosen from a parliament composed of a Senate and an Assembly. The Senate has thirty-two elected members, eight from each province, holding office for ten years, together with eight nominated senators. In 1926, an act was passed virtually providing that the term of the nominated senators should expire with the termination of the government appointing them.[20] The Assembly, representation in which is on a population basis, contains one hundred and thirty-four members, fifty-one from the Cape, seventeen each from Natal and the Free State, and forty-nine from the Transvaal.[21] In the event of disagreement between the Assembly and the Senate, a joint sitting may be held at the next session, at which a bill may be passed by majority.[22] This procedure was resorted to for the first time in 1926, to secure the passage of the Color Bar Bill.[23] Both English and Dutch are the official languages.

So far, the controlling factor in the political history of the Union has been the relationship of Britisher to Boer, which in turn affects native policy. Of the 1,519,500 Europeans in the Union, a little more than half are estimated to be of Dutch extraction.[24] Boers are believed to outnumber the British in every province except Natal. All of the prime ministers so far have been Boers and all have been generals in the Anglo-Boer War. The first two ministries were headed by General Botha, in power until 1919; the third by General Smuts who lost the election of 1924; and the fourth by General Hertzog. Political parties originated along racial lines. The British elements formed the Unionist party; while most of the Boers, led by Generals Botha and Hertzog, formed the South African party—the descendant of the "Bond," a party established by Hofmeyer in the South African Republic to bring about unity between the two white races. In November, 1912, the two Boer leaders came to a fundamental

[19] His duties as Imperial High Commissioner are discussed in Vol. I, pp. 168, 206.

[20] The Governor-General is authorized to dissolve the Senate within 120 days dissolution of the House in which case the nominated members shall vacate their seats. *Statutes, cited,* 1926, p. 825. The occasion for the passage of this act is discussed in Vol I, p. 62.

[21] Parliament of 1920-1924. *Official Year Book of the Union of South Africa,* No. 7, p. 92. Hereafter cited as *Year Book.*

[22] The joint sitting may be held, however, only after the Assembly passes the bill again. Article 61, South Africa Act.

[23] Cf. Vol. I, p. 58.

[24] Curiously enough, neither the South African Census for 1921 nor the *Year Book* contains any figures as to the racial origin of the European population.

disagreement over the racial question. Botha advocated a "One Stream" policy, the aim of which was to unite the Dutch and English elements into a single South African nation; while Hertzog advocated a "Two Stream" policy which aimed at keeping the Dutch and English nationalities distinct.[25] Because of this division, General Hertzog was forced out of the Botha ministry. He thereupon formed the Nationalist party, which demanded the creation of a South African republic, free from the imperial connection. Upon the outbreak of the European war in 1914, the more extreme Boer elements, led by General de Wet, attempted an "armed protest" which was, however, quickly squelched by the Botha government. Botha and the succeeding prime minister, General Smuts, both rendered signal services to the Allied cause during the War and at the Peace Conference.

In the elections of 1924, General Hertzog, leading the Nationalist party, and forming a coalition with the Labor party, succeeded in capturing a majority of the seats in the Assembly, as a result of which General Smuts and the South African party, which by this time included the old Unionist members, were obliged to retire from power. As the new government depended for a majority upon the Labor party—composed largely of English artisans believing in the Empire—it was obliged to give up its talk of independence. But it manifested its nationalistic feeling through the enactment of high protective tariffs, and through more stringent enforcement of the requirement that Afrikaans as well as English should be taught in the schools and that all officials should know both languages. Afrikaans is not, however, the Dutch of Holland. It is a distinct language resembling "low Dutch," which is understood in no place in the world except South Africa. Consequently, strenuous efforts are now being made to produce a local Afrikaans literature. In 1926, the government introduced a bill providing for a South African flag from which the Union Jack was to be omitted—a bill which raised such a furor that it was temporarily withdrawn. Despite the efforts of a special commission no agreement had been reached by June, 1927. It appears that the new definition of the British Commonwealth of Nations adopted at the Imperial Conference of 1926 was due,[26] originally, to the pressure of the South African Government. Partly because of this new definition, both of the Nationalist leaders, General Hertzog and Mr. Tielman Roos, have apparently

[25] Cf. Earl Buxton, *General Botha,* London, 1924, Ch. X, p. 15.

[26] The definition is as follows: "They [the Dominions] are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations." Cmd. 2768, (1926).

given up their former advocacy of complete independence. Mr. Tielman Roos, the leader of the extreme Nationalists, said: "We are absolutely satisfied. . . . There is no question of secession in South Africa." [27]

Upon arriving at Cape Town from the Imperial Conference, the Prime Minister, General Hertzog, declared that as a result of its decisions, "We are an absolutely free people, a free nation, to exercise our will as we might, and as we may think best in our interests in the future; and it has by its decision made it clear to us why it is no longer necessary to quibble about whether we shall remain in the Empire, or whether we shall secede from the Empire. . . ." [28]

The native policy of South Africa is controlled by the fact that the majority of the European population are Boers or "Afrikanders," as they prefer to be called—people who, for the most part, still cling to the traditions of the Transvaal and the Free State. The Boer was a farmer who—naturally, in a new country—was more interested in the acquisition than in the development of land. Living a pastoral life, the Boer soon cut himself off from the currents of the outside world. And it is only within recent years that this isolation has begun to break down. The Dutch Reformed Church—which has about 800,000 European members and adherents—is attempting to change the prevalent attitude toward the native by convening "European and Bantu" Conferences where white and black members have spoken sympathetically and frankly. Three conferences have been held. Such leaders as General Hertzog are fully aware of the necessity of adopting a program which will take into consideration the needs of the native race. But this leaven works among the leaders much more rapidly than it does among the masses—especially where a racial issue is involved. General Hertzog constantly finds himself checkmated, by the extremist Nationalists.

3. *Population*

The population of South Africa falls into four main groups: (1) European, (2) Asiatic, (3) Colored, (4) Native. In addition to the Boers and the English, there is a small Huguenot element in the European population which also includes a growing number of Jews.[29] Be-

[27] *Cape Times*, December 3, 1926, p. 11. Despite this statement, the Nationalist party has decided to retain Article IV of its constitution which provides for the establishment of "sovereign independence."

[28] *Ibid.*, December 14, 1926, p. 11. He went on to say that secession "is a question which we shall have to decide according to the dictates of the interests of our country, and if those interests in the years to come were to show it would be best, then it is not for you or me to say it shall not be done; in other words, we can leave that to the future."

[29] For an interesting description of these different groups, see Gertrude Millin, *The South Africans*, New York, 1926, Parts VI and VII.

tween five and ten per cent of the European population consists of what are called Poor Whites—Europeans who because of a general lack of education and efficiency have been unable to live up to the high European standard. Hitherto, many Poor Whites have eked out an existence as tenants or *bijwoners* on European farms. Especially since the War, the Poor Whites have been moving to the cities where many of them have been living side by side with the natives in abject poverty.

Practically all of the 166,000 Asiatics in the Union are Indians, whose exact status is discussed elsewhere. The Asiatic population, which increased 8.89 per cent between 1911 and 1921, is growing much less rapidly than the European or native population.[30]

The third racial group in South Africa includes the half-casts, Hottentots, and the Cape Malays. The larger part of the half-cast population appears to be the offspring of European marriages with Hottentots, who are now called Cape Colored people. At the present time, the mixed and colored population of South Africa numbers nearly 546,000, or 7.9 per cent of the total. Between 1911 and 1921, the colored population increased only 3.73 per cent,[31] which is considerably below the normal increase. While this class is being recruited from the offspring of present mixed unions, the main body of colored people belongs to the compact Cape Colored group, which dates its existence back to the original European occupation. Apparently this group, which contains some of the leading non-Europeans of South Africa, is beginning to degenerate.[32]

The fourth racial group, which constitutes 67.8 per cent of the total population, consists of natives who during the last two hundred years came pouring out of central Africa and literally exterminated the aboriginal inhabitants, the Hottentots and the Bushmen.

The following table purports to show the increase of the population of South Africa.

Increase of Population

Year	European population	Non-European population
1871	294,000	
1891	620,619	2,779,187
1911	1,276,242	4,697,152
1921	1,519,488	5,409,092 [33]

According to these figures, the European population in South Africa doubled itself between 1871 and 1891. It also doubled itself between 1891 and 1911. But in the ten years preceding 1921, it increased only

[30] Cf. Vol. I, p. 23.
[31] *Report, Third Census of the Population of the Union of South Africa,* 1921, Pretoria, 1924, p. 30.
[32] *Ibid.,* p. 226.
[33] *Ibid.,* p. 27.

nineteen per cent—a significant diminution in the rate of increase. On the other hand, the non-European population increased only sixty-nine per cent between 1891 and 1911, and only fifteen per cent between 1911 and 1921. Thus, the non-European population has increased less, proportionately, than the European population. While native increases have been due to birth within the Union, more than fifteen per cent of the present European population entered the country as immigrants.[34] At the present time, more than half the Europeans live in cities—an unhealthy condition for an undeveloped country.[35] Upon the basis of the 1921 census figures, the director of the census wrote, "It will require very little calculation to show that if the White race is to hold its own in South Africa, it will be necessary to secure an immense development of White civilization during the next fifty years, or perhaps, only the next twenty-five years. . . . The European race can only hold its own numerically by seeking accessions from abroad. Failing this, it must forever abandon the prospect of maintaining a White civilization except as a proportionately diminishing minority. . . . Long before the progression of the Native population reaches the numbers indicated . . . there must be clash and collision. . . ." [36]

He estimates that if the past rate of progress is maintained, in fifty years South Africa will have a population of 6,500,000 Europeans (2,500,000 of whom will be immigrants or the children of immigrants) and 16,500,000 blacks.[37]

There appears to be little connection between these predictions and the census figures which show that the European rate of increase is higher than the non-European rate. Moreover, while it is relatively easy to make an accurate count of Europeans, this is almost impossible in the case of the blacks. No attempt was made to enumerate the natives before 1891. As the Census Report says, "It is not known to what extent, if any, the Native populations were displaced, or reduced, nor what rate of increase, if any, prevailed prior to their contact with White civilization." [38] Neither the 1911 nor the 1921 census can claim accuracy,

[34] The European birth rate in South Africa is 27.5 per thousand, which is a little higher than that of Canada, New Zealand, and the United States. The crude death rate is 9.5 compared with 10.6 in Canada, 11.4 in the United States, and 12.8 in England and Wales. The infant mortality rate per thousand births is 73 compared with 72 for the United States, 77 for England, 115 for France, and 169 for Japan. *Year Book, cited,* pp. 150, 158, 167. It thus appears that the movement of European population in South Africa is about that of the older and more industrialized countries in Europe and America.

[35] Cf. Vol. I, p. 14.

[36] *Census, cited,* 1921, pp. 27-29.

[37] *Ibid.,* p. 28. He works out other rates, one of 4,000,000 Europeans and 19,000,000 blacks, and another of 3,650,000 Europeans and 24,000,000 blacks.

[38] *Ibid.,* p. 27.

as far as the native is concerned.[39] If the Bantu population increased only 16.89 per cent between 1911 and 1921, according to the census, it is doubtful whether there was a real increase of importance from natural causes, in view of the fact that in 1921 the census was taken more thoroughly than in 1911, and also in view of increases by immigration from Portuguese East Africa, which must have been considerable. Any conclusions—upon the basis of existing census figures—that the native population in South Africa is increasing have little foundation. Even if these figures are accurate, attempts to work out future increases upon a geometric basis are notoriously untrustworthy.

In order to make the permanence of white civilization more secure, many South Africans have advocated increased immigration. While no limitations are placed on the entry of ordinary Europeans,[40] the Union Government has not encouraged immigration largely out of fear that the British would gain at the expense of the Dutch elements.[41] In 1922 the Union suffered a permanent loss of departures over arrivals of 1380, which was due to the repatriation of twenty-four hundred Indians. The Naturalization and Status of Aliens Act, 1926, requires a residence of one year in the Union and previous residence either in the Union or in some other part of the British Empire for four years within the last eight years before application, as a condition of naturalization;[42] payment of fees of six and a half pounds is also required. Except for 1920 when 1845 aliens were naturalized[43] the number of naturalizations average about three hundred annually.[44] While increased white immigration would in one sense make white civilization more permanent, it would also necessarily increase racial tension. The fundamental reason why immigration and European population do not increase naturally is the economic organiza-

[39] One census supervisor, in explaining the increase in the Transvaal Bushveld says: "I think that a great portion of the increase can be attributed to the fact that the natives are gradually overcoming their suspicions in connection with the taking of the census, and are presenting themselves for enumeration, which they had not previously done. You will, I am sure, readily understand that it is a physical impossibility for enumerators to visit every Native kraal . . . as much of the country is wild and inaccessible except on foot, and the natives in many parts are as wild as the country, and take to the bush immediately on the approach of a European." *Ibid.*, p. 44.

[40] The Immigrants Act of 1913 defines, however, certain classes of prohibited immigrants. In 1923, 1946 such prohibited persons were disposed of. *Year Book*, p. 143.

[41] A commission from Holland visited South Africa in 1927 with a view to studying the possibilities of Dutch settlement which would relieve crowded conditions in Holland.

[42] British Nationality in the Union and Naturalization and Status of Aliens Act, *Statutes, cited*, 1926, p. 136.

[43] Of whom 1442 were Russians.

[44] *Year Book, cited*, p. 146.

tion of the country which restricts the scope of European enterprise—an organization which will now be briefly discussed.

4. *Economic Organization*

The Economic and Wage Commission in its report published in 1926,[45] estimated the net product of South African Industry in 1923 to be 186,000,000 pounds, of which agriculture represented 47,000,000, mining 37,000,000, manufactures 31,000,000, transport 16,000,000, and commerce and finance 12,000,000 pounds. The Commission estimated that the per capita (including natives) income in South Africa was much lower than in Australia, Canada, or the United States, and upon the same level as the income of Germany or Italy. South Africa has an income per occupied person of only forty-three pounds.[46] These figures would indicate, therefore, that the country is under-developed. But on the other hand, real wages of Europeans in South Africa are higher than in any place else in the world except in the United States, Canada, and Australia. Wages in England are 30 per cent less, in Amsterdam nearly 40 per cent less, in Paris and Berlin 50 per cent less than real wages in South Africa. Thus while the capacity of South Africa to pay wages is much lower than that of many other countries, the wages actually paid are among the highest in the world. In fact, the average wage, which in other countries is usually half the average per capita income, in South Africa is above the average per capita income. While in England, the weekly wage of an engineering artisan equals the pithead price of three tons of coal, in South Africa, it equals the price of twenty to twenty-five tons. Thus skilled wages take a much larger share of the product of industry than in other countries. The explanation for this state of affairs is to be found in the fact that unskilled labor in Africa is invariably performed by natives who are paid much less, in relation to skilled laborers (who, because of the color bar, are always white), than unskilled workers in other countries.[47]

But this difference is not proportionate to difference in skill, primarily because native wages in South Africa are not subject to the law of supply and demand, but, as far as mining labor is concerned, are fixed by the two recruiting organizations of the Transvaal Chamber of Mines. The other employers follow suit, or even pay lower.[48]

[45] *Report of the Economic and Wage Commission* (1925), U. G. 14-1926, p. 217.

[46] Australia has an income per occupied person of one hundred and seventy-eight pounds; Canada of two hundred and sixty pounds; the United States of three hundred and thirty-eight pounds.

[47] In England, the ratio of the unskilled to the skilled labor wage is 11 to 15 in the building trades; but in South Africa, it is 1 to 6. U. G. 14-1926, p. 19.

[48] Cf. Vol. I, p. 76.

On the other hand, wages of Europeans are unduly high not only because native wages are unduly low, but also because the rapid development of the mining industry placed a premium on white personnel. White wages —now averaging about a pound a day—levelled themselves up generally to the wages paid skilled artisans on the mines. Today the average earnings of European employees, including officials in the mines, is two hundred and eighty-eight pounds a year, although the average net product per capita of the mining industry is only one hundred and thirty-two pounds. Since out of the net product all charges for profits, interest, and taxes must be defrayed, it is obvious, says the Economic and Wage Commission, that the present high level of European wages is due to the low level of native wages; "and neither can be increased except at the expense of the other unless there is an increase in production per head." [49]

As a result of this wage system, South African industry tends to organize itself on a basis of a small number of highly skilled Europeans and a large number of cheap native laborers. Moreover, in the absence of a large middle class of artisan population, the openings in the professions and other activities serving such a class are necessarily limited. As long as this system remains, and because of the land system which restricts agriculture,[50] there is no incentive for immigration. Immigrants can find no means of making a living. Indeed, some alarm is already felt lest the European generation now finishing school should not find suitable employment. Already the less capable Europeans who cannot qualify for jobs requiring a high level of efficiency find difficulty in fitting themselves into the industrial organization. Some of them must perform some form of unskilled labor. Even though they are more efficient than the native, they cannot live on the wage which industry can afford to pay the white man in competition with the black. The result is that the inefficient Europeans swell the Poor White class. The lower the native wage, the greater the danger to the white man not efficient enough to occupy a position at the top. The Hertzog government has made strenuous efforts to alleviate the Poor Whites by the so-called "civilized labor" policy, employing these people at a "civilized wage" in place of black manual laborers on government plantations, railways, and public works. So far, these openings have been too limited to help many Poor Whites, the employment of whom in the place of the natives has led to increased costs.[51] The black population

[49] U. G. 14-1926, *cited*, p. 88. [50] Cf. Vol. I, p. 85.

[51] The Union Post Office recently found that in construction work, the cost of white labor at first was as much as one hundred and fifty per cent more than if the work had been performed by natives. The Public Works Department allowed ten per cent more on building contracts when whites were employed in place of natives; while the Railway administration found that while adult white

protests against the "civilized labor" policy on the ground that it bars them from yet another avenue of opportunity. It appears that the Poor White problem will be solved only by a fundamental reorganization of South African industry.

Another accompaniment of this type of racial-industrial organization is an artificially high cost of living. According to the Economic Commission, which reported in 1914, the cost of living in South Africa, particularly on the Witwatersrand, was about forty per cent higher than in America and about eighty per cent higher than in any European country.[52] This cost of living is high partly because South Africa is obliged to import fifty per cent of the wheat and flour consumed. According to the Economic Commission, a leading cause of high rents is the "division of the South Africa community into two distinct social strata with widely differing standards of living and purchasing power. The class of house considered is provided only for the whites, and as the latter are comparatively limited in number, the supply is subject to all the uncertainty of a small market. The position is radically different from that in an all-white community where, whatever the resources and standards of living, there is a continuous series of such individuals with standards of living ranging from the highest to the lowest, and shading off into one another. In such a homogeneous community of one race, there are no gaps between the various strata, so that if any vacancy either in occupation or residence occurs anywhere except at the bottom of the social scale, it is filled without disturbance or dislocation. . . . This is not so in South Africa where what one witness called the lowest efficient man in the white scale is soon reached. If he does not require the particular housing provided, it has either to remain vacant or to be occupied by the colored man or native whose standards of living are on a much lower level. . . . If in England working-class families tend to under-house themselves, in parts of South Africa, they would certainly seem to make the mistake of over-housing themselves in view of the cost of living. . . . The white man is expected and expects to be domiciled in a fashion unmistakably superior to that of the non-white." [53]

5. *The Labor Supply*

Little manual work in South Africa is performed by Europeans other than by an increasing number of Poor Whites. Practically all such labor

laborers were perhaps fifteen per cent more efficient than native laborers, their wages were one hundred per cent higher. U. G. 14-1926, p. 84.

[52] *Report of the Economic Commission,* U. G. 12-1914, p. 16. Wages at that time were forty per cent higher than in America and two hundred and twenty per cent higher than in Europe.

[53] *Ibid.,* p. 22.

is furnished by the natives, and, in the case of the Natal coal mines, by Indians. The average numbers of natives employed in the Transvaal labor districts between 1911 and 1923 have been as follows:

1911	301,852	1918	268,412
1912	314,218	1920	284,169
1913	289,279	1921	274,665
1914	243,509	1922	276,826
1915	260,495	1923	303,230[54]

These figures show that the average number of laborers employed between 1911 and 1923 on the Transvaal has remained practically stationary, if, indeed, it has not declined. Nevertheless, the production of gold in the Transvaal has increased from 7,527,108 ounces in 1910 to 9,148,771 in 1923. The production of diamonds, on the other hand, has declined one-half.[55]

Periodically since 1903, European employers have complained of a labor shortage. The Transvaal Labor Commission of 1903 estimated that the demand for labor was in excess of the supply to the extent of 129,000 laborers, and that a further number of 196,000 would be needed in the next five years.[56]

With this finding the Native Affairs Commission, reporting in 1905, agreed. It declared that to meet a demand for 782,000 native laborers, 474,500 men were available, leaving a shortage of 307,500. The Commission estimated that the males between fifteen and forty constituted one-fifth of the population—or about 899,000 men, but that only half of this number could be expected to work at any one time.[57]

In 1926, the Economic and Wage Commission said,

"In every district your Commission visited, with the exception of Cape Town, and in every industry from which we heard evidence, we were met with a complaint of a shortage of native labour. Even the sugar industry of Natal told us that 'notwithstanding the large native population of Natal, it is doubtful whether the Province provides as much as a quarter of the labour requirements of the sugar industry. With the steady disappearance of Indian labour following the repeal of the immigation laws, recruiting for natives had to be extended to other Provinces.' And we were also informed that the cotton industry was apprehensive about the shortage of native labour and that one proposal had been made to apply for permission to import East Coast natives.

[54] *Year Book, cited,* p. 873. The total number of natives under European employment throughout the Union is apparently unknown; it is estimated, however, that 888,000 natives inhabit the towns, of whom 590,000 are men who are presumably under employment. *Ibid.,* p. 124. Cf. the table on p. 491.

[55] *Ibid.,* pp. 496, 515. The decline in diamond production may, however, be due to the international control on output which diamond companies, aided by the government, now impose in order to keep prices up, instead of to a labor shortage.

[56] *Transvaal Labour Commission,* Cd. 1896, (1909). [57] Cd. 2399, *cited,* p. 55.

The mining industry, with its better organization and greater resources, draws natives from agriculture and other industries to the detriment of the latter. But even this resource would have only a limited field; for it was made plain to us that the native shows only a partial and imperfect response to pecuniary incentives; his choice of employment is affected less by the rate of wages offered than by the nature of the employment and the custom of his tribe and district; so that only a minority would be attracted away from their customary occupations to the mines. On the other hand, many of those who at present seek employment on the mines would probably contract for shorter terms of service and return to the locations sooner than they do at present, if they were enabled to earn the sum which at present they take back with them in a shorter time." [58]

The supply of labor for European industry depends also upon the state of native production in the reserves. In famine years, or in times of drought, the number of natives seeking employment has increased. In the Transkei, the most intelligent and the most prosperous natives, such as the Fingoes, do not seek European employment to such an extent as the Pondos, a less intelligent people.

In 1924, there was a shortage of some 16,000 laborers at the mines, mainly because of "the exceptionally good harvest in most Native areas, which largely relieved the natives of the economic pressure which alone induces them to seek employment, and to the increased labour needs of industrial and agricultural enterprise." [59]

This experience in South Africa would thus, it appears, disprove the theory now being advanced in Kenya that the more production in the reserves is encouraged, the greater will become the number of natives who will also seek outside work.[60]

Possessed of sufficient land to supply his wants, no native would voluntarily seek underground employment on a European mine several hundred miles away from his home, nor any other kind of European employment where he would be obliged to live under unnatural conditions. As the South African Native Affairs Commission said in 1905, "The normal condition of Native Life is that of a small cultivator and herdsman, and the circumstances of their history have never developed among them a class accustomed to, and dependent upon, continuous daily labour." [61]

[58] U. G. 14-1926, *cited,* p. 148. In November, 1926, there was a drop in the profits of the six mining groups of £25,625, which was due to "serious shortage of native labour." *Cape Times,* December 13, 1926, p. 17.

[59] *Report of the Native Recruiting Corporation,* September, 1925, p. 3.

[60] Cf. also the evidence in the *Report of the Native Grievances Inquiry,* 1913-1914, U. G. 37-1914, p. 82, where a witness says that "only ten percent consists of natives who might live at home but come out of a desire to earn wages."

[61] *Report of the South African Native Affairs Commission,* Cd. 2399 (1905) p. 57.

Consequently, in order to get the native into European employment, the Cape Province enacted in 1894 a labor tax, imposing a tax of ten shillings on native males who had not been in employment outside of their district for three months during the year—a tax which was repealed, however, in 1905.[62]

In 1908 the Transvaal government also imposed a tax of two pounds upon each native unless he were a farm laborer, in which case he only paid a pound. A farm laborer was defined as a native who furnished at least ninety days' service a year to the farm owner.[63]

In order to increase the actual supply of labor, the Chamber of Mines increased the length of contract from six to nine months, in 1922-1923. According to the Report of the Native Recruiting Corporation,[64] "It is hoped that the institution of the nine months engagement period for contracted natives will serve to check the seasonal efflux of natives which hitherto has seriously disturbed the labour force in the early months of the year." Thus some of them will be prevented from going to their homes in the planting season.

The fact that the South Africa natives do not possess enough land to provide themselves with food is a fundamental reason why they must seek European employment—a factor discussed elsewhere. But of perhaps equal importance is the recruiting system which will be discussed in the next chapter.

[62] Cf. Vol. I, p. 85.
[63] *Statute Law of the Transvaal,* Vol. III, p. 1963.
[64] *Report of the Native Recruiting Corporation,* September, 1924, p. 3.

CHAPTER 2

THE RECRUITING OF LABOR

One of the unexpected results of the Boer War, fought in order to remove restrictions upon the exploitation of the Rand mines, was the decline in 1903 of the native labor employed on these mines to one-half of what it was in 1899.[1] In order to meet present needs and make expansion possible, an increased supply of labor became necessary. With this end in view, the mines organized the Witwatersrand Native Labor Association as early as 1900. But the efforts of this organization, which will be described later, did not meet the need. Consequently, a "labor crisis" arose in 1903.[2]

1. *Chinese Labor*

Asserting that native labor was insufficient to meet the requirements, the mine operators demanded the importation of Chinese. In 1903, the Witwatersrand Native Labor Association sent a representative with this in view to the Far East and to China; an important inter-colonial conference at Bloemfontein supported the principle of indentured labor; and at about the same time, the Chamber of Mines organized a Labor Importation Association. The Boer population, led by General Botha, took the view that the mines had exaggerated the shortage of native labor, that more natives would accept employment if the conditions under which they worked could be improved, and that if a shortage really existed, the mines should retard development, rather than introduce a disruptive factor into the social life of the country.

While Lord Milner, the Imperial representative, favored the importation of Chinese labor, he was unwilling to authorize it unless a Commission first showed that the labor required for mining development could not be obtained from Africa. Such a Commission was thereupon appointed. As anticipated, the Majority reported that there was an urgent labor shortage. It declared that the native labor supply was closely connected with the tribal land system of South and Central Africa. Until the conditions affecting the native in his home could be changed, no great

[1] *Report of the Transvaal Labour Commission,* Cd. 1896, p. 15.
[2] For an admirable account, see Persia C. Campbell, *Chinese Coolie Emigration,* London, 1923, Ch. IV.

change in the labor supply could be expected. It did not believe that the weapon of heavy taxation should be used as it could hardly be "distinguished from forced labour." [3]

The Commission did not believe that it would be possible to introduce white labor to perform manual labor on the mines. Instead of this being profitable, it reported that "there are facts indeed which tend to show that an exactly contrary displacement of white by black labour has been in progress." [4] The Commission found that there was no adequate supply of labor in Central and Southern Africa to meet the requirements of agriculture and the present and future demands of the mining industry. The Minority, however, declared that the Chamber of Mines had exaggerated the shortage and that the expansion of the mining industry should not proceed at a rate incompatible with the sound and permanent prosperity of the inhabitants of the Transvaal, both white and colored.[5] In its opinion, the policy of the Chamber of Mines was directed toward the perpetuation of the "Inferior Race Labor System by the importation of Asiatics," which was in opposition "to the growth of a large working British population."

Upon the basis of the Majority report, the government, in 1904, secured the passage of the Transvaal Labor Importation Ordinance,[6] which provided that imported laborers could be engaged in unskilled work on the Rand Mines only under contract for a period of three years which might be renewed for an additional three years, but that they should be repatriated at the expiration of this period. Lord Milner forwarded the ordinance to London with his blessing. But stirred up by opposition in the Transvaal, Liberal and Labor members in the House of Commons moved that it was inexpedient to sanction the ordinance until the approval of the colonists had formally been ascertained—a motion which was defeated.[7] Nevertheless, Mr. Lyttelton, the Secretary of State for the Colonies, insisted that the regulations controlling the recruiting of Chinese should be drafted before the ordinance was approved.[8] Later, Sir H.

[3] The Transvaal and the Cape had imposed such taxes with the labor supply in mind.

[4] Cd. 1896, *cited,* p. 40.

[5] *Ibid.,* pp. 43 ff.

[6] For the text, cf. *Transvaal Labor Importation Ordinance,* Cd. 2026 (1904), p. 12.

[7] *House of Commons Debates,* February 17, 1904, Cols. 80, 124. Hereafter cited as *H. C. Deb.*

[8] Regulations are printed in *Transvaal Labour Question,* Cd. 2026, *cited,* p. 1, Cd. 1986 /(1904), p. 8. Cf. also Emigration Convention of May 13, 1904 between Great Britain and China. *Ibid.,* p. 57. Emigration from China was placed in the hands of a British Emigration Agency, working with a Chinese inspector. Emigrants were examined medically and also to determine whether or not they understood the terms of the Indenture. Regulations prescribed accommodation on board,

Campbell-Bannerman moved a vote of censure on the Balfour government for wishing to introduce servile labor in the wake of the Boer war.[9]

Meanwhile, the Labor Importation Agency, after making elaborate arrangements, had begun the importation of its coolies. It appears that more attention was paid to the food and health of the Chinese workers than to that of native laborers.[10] But difficulties of a more serious nature arose. Unlike the natives, the coolies would not submit to bullying by white overseers—a fact which led to disturbances. Disputes over the method of reckoning wages also occurred. Owing to a shortage of inspectors, the employer in many cases did not fulfil the terms of the contract with the Chinese who had no means of redress other than desertion. But desertion was a criminal offense. Nevertheless, in the first year, more than twenty-one thousand out of the forty-three thousand coolies recruited, unlawfully absented themselves from work. To escape arrest, the Chinese deserters were obliged to keep under cover in daytime; and in order to keep from starvation, they were obliged to steal at night. Thefts increased without number; in 1905-1906, 13,532 laborers were convicted of offenses. Twenty-six coolies were convicted of murder. According to General Botha, the volume of outrages committed by the Chinese coolies led Europeans to desert their farms.[11]

Although the regulations allowed the entrance of families, only five women and thirty-one children accompanied the coolies to the Transvaal. The social life of the Chinese compounds was what might therefore be expected. Gambling became universal, followed by wholesale indebtedness. Nine-tenths of the deserters were victims of gambling. Opium was surreptitiously smoked, while the House of Commons was shocked to learn that sodomy was secretly practised in almost all of the compounds.[12] In December, 1905, the Colonial Office ordered that no further licenses for the importation of Chinese be issued until the establishment of Responsible Government. While the 1906 election campaign in England was fought partly over the question of tariff reform, the Liberals really drove the Conservatives out of office on the ground of this

rations, etc. The Chinese government was authorized to appoint a consul to watch over the interests of the laborers in South Africa.

It cost £11, 10s to import each Chinese coolie and £6 to repatriate him. *Labour on the Transvaal Mines,* Cd. 2786 (1905), p. 25.

[9] The motion was defeated, 299 to 242. H. C. Deb., March 21, 1904, cols. 252 and 368.

[10] See the Earl of Selborne's report, *Labour on the Transvaal Mines,* Cd. 2786 (1905), p. 25.

[11] Campbell, *cited,* pp. 194, 209, 213.

[12] *H. C. Deb., cited,* Nov. 15, 1906, cols. 202-203.

Chinese policy. The Transvaal Constitution, granted in 1906, brought the régime to a definite end.[13]

Despite the protest of the Chamber of Mines that vested rights were being infringed, the Chinese coolies were now repatriated at the end of their contracts, and the importation of further laborers stopped.

2. *Indian Labor*

In originally insisting upon the repatriation of these coolies, the Transvaal Government had in mind the experience of Indian Labor in Natal. Between 1860 and 1866, the sugar planters of Natal, dissatisfied with the native labor supply, imported Indian indentured labor.[14]

In 1866, the entrance of Indian laborers to Natal was suspended, but because of the demands of planters, it was again permitted in 1874, and continued without obstruction until 1911, when the Government of India prohibited it. In 1909, a Natal Commission declared: "Absolutely conclusive evidence has been put before the Commission that several industries owe their existence and present conditions to indentured Indian Labour, and that if the importation of such labour were abolished under present conditions the industries would decline, and in some cases be abandoned entirely." [15]

Instead of returning to India, the majority of laborers either signed new contracts at the completion of their original five-year contracts or entered farming or trade—becoming "free Indians." At the request of a Natal deputation in 1894, the Indian Government agreed not to raise an objection to the insertion in labor contracts of a clause to the effect that coolies must return to India at the end of their indenture, provided that failure to comply should not constitute a criminal offense. To carry out this understanding, the Natal Government passed an act in 1895 stating that if the coolies failed to return to India or to re-indenture in Natal, they would be subject to an annual tax of three pounds a head.[16] In 1903, the government passed another law declaring that if the children of immigrants did not sign an indenture or return to India, they would also be liable to the tax.[17] In 1907, the Transvaal Government passed

[13] Sec. L, Transvaal Constitution Order in Council, *Statutory Rules and Orders*, 1906, p. 909.

[14] Indian immigration was supervised by an Indian Immigration Trust Board. The interests of the immigrant were also watched over by a Protector of Indian Immigrants. Law No. 20, 1874; Law No. 25, 1891, *Statutes of Natal*, 1845-1899, Vol. I.

[15] Quoted in *Report of the Indian Inquiry Commission*, Cd. 7265 (1914).

[16] Act 17, 1895, *Statutes of Natal, cited*, Vol. I.

[17] Act 2, 1903, *Ibid.*

a law requiring the registration of Asiatics. At this time, all the various colonies had laws restricting Asiatic immigration. This end had been achieved in Natal by an Immigration Act, first passed in 1897, which authorized the government to restrict immigration through imposing an education test in the characters of a European language. The movement of Indians from one province to another was also restricted.

A number of difficulties over the status of Indians soon arose. Only a certain percentage of the Indian men were liable to pay the license tax, while the wealthier Indians, who had never been indentured, escaped scot-free. Further difficulties came into existence over the status of Indian marriage. In 1910, the Searle judgment held that a marriage contracted according to the Indian rites recognizing polygamy, even if in fact monogamous, was illegal, and all children born of such marriage were illegitimate —a judgment regarded by the Indians as a slur upon their women. Opposition to compulsory registration in the Transvaal led to the first passive resistance movement of the Indians, starting in 1906, which was finally brought to an end in a 1911 "settlement" between Gandhi and General Smuts. In 1913, however, parliament passed the Immigration Regulation Act, which classified among prohibited immigrants any person or class of persons deemed by the Minister on economic grounds or on account of standards or habits of life to be unsuited to the requirements of the Union or any particular province thereof. This Act is administered to exclude all Asiatic immigrants, except wives and children of domiciled residents.[18] The Indian community did not object so much to this type of prohibition[19] as to the effect of the Act upon the rights of Indian residents and upon the admission and status of Indian women married in accordance with the rites of the Indian religion.[20] Consequently, the

[18] *Statutes of the Union of South Africa,* 1913, p. 214.

[19] The Indians did object to open exclusion by law. In a despatch of October 7, 1910, Lord Crewe, Secretary of State for Colonies, quoted the Minister of the Interior of South Africa to the effect that as there must be differential treatment of Asiatics desiring to enter the Colony, it was on all grounds preferable to provide for such treatment by law and not to leave it to administrative action. "On grounds of logic and simplicity," says Lord Crewe, "there is doubtless much to be said in support of this contention. It must, however, be remembered that there is on record the statement . . . that the leaders of the Indians will acquiesce in differential treatment, so long as it is secured by executive action and as the law does not enact a colour bar. . . ." His Majesty's Government only ask "that the exclusion of such immigrants shall not be provided for in a manner which subjects them to unnecessary humiliation." In order to satisfy these considerations, the Union Government drafted an Immigrants' Restriction Bill in 1911, embodying the Natal dictation test. But this was later abandoned in favor of the provisions above mentioned in the 1913 Act. Cf. *Correspondence, etc.,* U. G. 7-1911. The Indian government did protest strongly, however, against certain provisions in the 1913 Act. Cf. *Immigration Regulation Act,* Cd. 7111, 1914.

[20] A detailed account of this controversy will be found in *Report of the Indian Inquiry Commission,* Cd. 7265, *cited.* Cf. also Cds. 5579, 6283, 6940 and 7111.

Indian community again embarked on a passive resistance campaign. Indians illegally crossed into the Transvaal, while four thousand struck on the Natal coal mines. In a collision with the police, nine of them were killed. A Commission of Inquiry, after exonerating the police, examined the grievances of the Indians, and recommended, among other things, the repeal of the license tax of three pounds. "We have to realize the fact that the indentured Indians have been brought here to serve our own needs, that for better or for worse the majority of them have come to stay, and that in the interests of good government it is desirable to remove as far as possible any causes of irritation." [21] To carry out these recommendations, parliament passed the Indians Relief Act [22] which authorized the Minister of the Interior to appoint priests of any Indian religion as marriage officers with authority to solemnize marriages according to the Indian religion; provided for registration of Indian marriages in fact monogamous; admitted a wife of an Indian resident in the Union notwithstanding the fact that he might be married to other wives in India; and repealed the provisions of the laws relating to yearly passes and license taxes on ex-indentured Indians. It also provided for the voluntary repatriation of Indians at South Africa's expense.

As a result of these measures—the prohibition of new immigrants, repatriation, etc.—and of the fact that Indian men greatly outnumber the women (the ratio is 142.32 to 100) the Indian population in the Union has shown only a slow increase, from about 150,000 in 1911 to 161,339 in 1921, or 8.89 per cent. This rate is much less than that of the European or native populations. Between 1911 and 1921, a total of 26,782 Indians were repatriated.[23] Seven-eighths (or 141,280) of the Indian population are found in the province of Natal where Indians outnumber Europeans. About 13,400 Indians are found in the Transvaal, and sixty-five hundred in the Cape Province. As a result of a rigid policy of prohibition, only a hundred Indians have taken up their residence in the Free State.[24] If the Indian population originally imported to work on the Natal estates had been obliged to return at the end of their contracts, the present Indian population would not be nearly as large as it is. 102,000 of the 161,000 Indians were born in South Africa.

The treatment of Indians in South Africa has been necessarily influenced by the fact that India is a member of the British Commonwealth of Nations. In 1918, the Imperial Conference passed what was known as the Reciprocity Resolution. This resolution affirmed the right of each community of the Commonwealth to control, by immigration restrictions,

[21] *Ibid.*, p. 29.
[22] *Statutes, cited,* 1914, p. 136.
[23] *Census,* 1921, *cited,* p. 225.
[24] *Ibid.*, p. 240.

the composition of its own population; but recommended that facilities should be given to Indians for visit and temporary residence; that domiciled Indians should be permitted to import their wives and minor children; and that the removal of disabilities upon Indian residents should be considered. In 1921, the conference, with South Africa dissenting, reiterated these principles, and also expressed the opinion that the rights of Indians lawfully domiciled in the various parts of the Empire to citizenship should be recognized.[25]

During the World War, the Indians who had been gradually acquiring wealth began to compete in trade and agriculture with the white men. In Natal, no restrictions existed upon the acquisition of land, and Indians enjoyed the municipal franchise. In the Transvaal, however, they could neither vote nor own land [26]—the latter a provision Indians evaded by the formation of companies, the number of which increased from three in 1914 to one hundred and fourteen in 1918. In 1919, the Transvaal enacted a law prohibiting companies controlled by Asiatics from acquiring land.[27] Indian traders also had difficulty in obtaining trading licenses. As a result of renewed anti-Indian feeling in South Africa, the government now appointed an Asiatic Inquiry Commission, which reported in 1921.[28] It recommended the retention of the Transvaal law prohibiting ownership of land and proposed that Indians should be allowed to acquire farming land only in the coast belt of Natal. It also recommended the encouragement of voluntary repatriation and of voluntary separation under which municipalities could set aside residential areas for Asiatics. As a result of the protests of the Indian Government, South Africa did not enact the proposed legislation. But Natal, becoming more and more restive, enacted several anti-Indian ordinances, one of which deprived the Indians of their municipal franchise. Although the Union Government twice vetoed this legislation, in 1925 it accepted the Boroughs Ordinance providing that no one in the future could be enrolled for municipal elections who did not possess the parliamentary franchise.

The Color Bar Act [29] passed by the Union Parliament in 1925 authorizes the government to discriminate against Asiatics if it wishes to do so. In 1924, the Smuts government introduced the Class Areas Bill, which authorized the establishment of separate residential and trading urban areas for persons other than natives, having common racial characteristics.

[25] Cmd. 1474 (1921), p. 8.

[26] In 1920, the Transvaal Provincial Division Court handed down a decision which endangered certain rights which it was understood had been secured by an agreement between General Smuts and Gandhi in 1911.

[27] Asiatics (Land and Trading Amendment) Act, No. 37 of 1919.

[28] *Year Book*, No. 4, p. 989.

[29] Cf. Vol. I, p. 63.

If enacted, the government could have enforced a policy of segregation which it was believed would ruin a number of Indian traders. Consequently, the Government of India and Indian organizations made a vigorous protest. Because of the unexpected dissolution of the Assembly in April, 1924, the bill temporarily lapsed.

In July, 1925, the new Hertzog government introduced an even more severe measure—the Areas Reservation Bill which provided for segregation, and for the more stringent enforcement of immigration restrictions. In particular it prohibited after 1930 the further entry of women and children of Indians domiciled in the Union.

Supported by the outcries of Indian leaders, the Indian Government asked the South African Government to discuss the proposed legislation in a Round Table Conference. The Hertzog government finally agreed to the principle of the Conference, provided that it discuss the possibility of a plan of voluntary repatriation which the Indian Government should assist by holding out the inducement of land to Indians returning home. At first, the Indian Government declined to consider this possibility, and consequently, the Hertzog government re-introduced the Areas Reservation Bill, in 1926.[30] But following the visit of several unofficial and official deputations from India to South Africa, and of a deputation from South Africa to India, the Indian Government finally agreed to discuss the plan of assisted emigration, whereupon the South African Government agreed to a Round Table Conference.[31]

The Round Table Conference took place at Cape Town between December 17, 1926, and January 11, 1927. As a result of discussions which were held behind closed doors, a "Gentlemen's Agreement" was reached between the Indian and the South African Governments which was announced on February 21, in the South African Parliament. In this Agreement, both governments "reaffirm their recognition of the right of

[30] *House of Assembly Debates,* February 8, 1926, p. 330.
"We had a right to say to the Government of India that any interference from outside in our domestic affairs would be tolerated neither by the people of South Africa as a whole nor by the bulk of the followers of any political party in the country. For this reason, and under these circumstances, we intimated to the Government of India that we were not in principle opposed to the holding of a round-table conference, but if we did hold one, then in the proposed discussions must be included this particular point, that the Government of India shall be asked to be willing to co-operate with the Government of the Union to assist the Government in making the scheme of voluntary repatriation more effective than it is. We more particularly thought of the possibility of holding out with the assistance and co-operation of the Government of India an additional inducement to the Indians to leave the country by holding out to them the possibility of an advantageous land settlement in India or adjacent territories." Statement of the Prime Minister, *Ibid.,* February 17, 1926, p. 671, introducing the Areas Reservation Bill.

[31] Cf. the statement of the Prime Minister, *ibid.,* April 23, 1926, p. 2718.

South Africa to use all just and legitimate means for the maintenance of Western standards of life." [32]

The Government of South Africa "decided" to drop the Areas Reservation Bill, and to organize a system of assisted emigration in which it agreed to furnish free passage and a bonus of twenty pounds to any Indian in South Africa wishing to be repatriated. It also agreed to take certain steps to improve the condition of those Indians wishing to remain in South Africa.

In announcing the terms of this agreement, Dr. Malan, Minister of the Interior of the Government of South Africa, said: "Throughout the Conference there was a remarkable absence of the spirit of bargaining. The decisions taken were arrived at solely and wholeheartedly with a view to a comprehensive, effective, and peaceful settlement."

This agreement met with the disapproval of extremists in both India and South Africa. Natal farmers, Durban Indians and members of parliament protested.[33] But the majority in both India and South Africa, realizing that some compromise had been necessary, loyally accepted the agreement. Mr. Gandhi took this position; while the *Times of India* declared that the agreement was a triumph of Imperial statesmanship, and that the changed attitude of the Nationalist Government in South Africa was largely due to the results achieved by the last Imperial Conference. In a leading article, the *Cape Times* (South Africa) said: "In bringing this about, the Union Government has done good service to South Africa, to the world, and to the cause of the Empire. The friendship of India is a moral and material asset that South Africa will never regret possessing; she has shown the world that it is possible for East and West to meet and talk and understand, even when vital issues are concerned. . . . In solving her share of a problem that is destined in various forms and guises to be one of the most vital and difficult that mankind will have to face during the next 100 years, South Africa has vindicated her young nationhood and taken her place among the advanced peoples of the world. It is, too, let us hope, a happy augury for the manner in which she will yet be given the grace and wisdom to handle a still greater problem and one in respect of which she will again find herself the agent of mankind—the Native problem." [34]

3. *The "W. N. L. A."*

Having found Chinese and Indian labor unsatisfactory, South African industry has come to rely upon native labor, part of which is obtained from

[32] The full terms of this Agreement are in Appendix I.

[33] *Cape Times, cited,* March 14, 1927, p. 13; *ibid.,* March 22, 1927, p. 10; *ibid.,* March 25, 1927, p. 9.

[34] *Ibid.,* Feb. 12, 1927.

the Union and the protectorates of Basutoland, Swaziland, and Bechuanaland, and part from Portuguese East Africa.[35] At present there are about 80,000 East Coast boys at work in the Transvaal.

In 1896, the Portuguese Government authorized recruiting for the Rand mines; and in 1901, the Portuguese and Transvaal Governments drew up a modus vivendi regulating such recruiting.[36] This modus vivendi was succeeded by a convention of April 1, 1909,[37] in which the Portuguese Government agreed to permit recruiting for the Transvaal mines within the territories under its direct administration—which thus excluded recruiting in the areas administered by the Mozambique and Nyasa companies. The Mozambique Government reserves the right to prohibit recruiting by or for a Transvaal employer who, upon a joint investigation of the two governments, is found to have failed to live up to his obligations. Recruiting licenses are issued by the Mozambique Government to applicants certified by the Secretary for Native Affairs of the Transvaal—now of the Union. Before leaving the province, every laborer shall be supplied with a passport available for one year, for which a fee of thirteen shillings shall be paid to the government by the employer. Laborers shall not be engaged for a longer period than one year, but they may be reengaged for a further period of one year.

The Portuguese Government appoints a Curator who is an official charged with the functions of a consular officer with respect to such natives and is authorized to issue Portuguese passes to natives; to collect fees; to organize a Deposit and Transfer Agency for money which Portuguese natives may wish to send home; and to approach the Transvaal

[35] The Witwatersrand Association, following the Boer War, scoured the whole continent—German East Africa, Uganda, British West Africa, Liberia, Senegambia, Egypt, Belgian Congo, Madagascar, Somaliland, and Morocco—for sources of labor. *Report of the Witwatersrand Native Labour Association,* 1904, pp. 7-8.

[36] Convention of December 18, 1901. *British and Foreign State Papers,* Vol. 95, p. 931; an addendum was made June 15, 1904. In 1903, the members of the Witwatersrand Native Labor Association recruited a total of 47,197 laborers of whom 41,956 came from Portuguese East Africa. *Transvaal Labour Commission,* Cd. 1896, p. 28.

[37] *British and Foreign State Papers, cited,* Vol. 102, p. 110. This Convention also provided for cooperation between the two governments in regard to the development of the import and export traffic to and from the Transvaal via Lourenço Marques; provided for the fixing of railway rates, and established a Joint Board, containing two representatives of the Transvaal Government and two from the Mozambique Government, having a Portuguese Chairman. This Board must act by unanimous vote. If delegates do not agree, the matter is referred to the two governments, and failing to reach a mutual decision, the resolution of the Board is maintained.

Part III of the Convention provides that the products originating in Mozambique shall not be liable to payment of customs in the Union, and vice versa. Merchandise imported at Lourenço Marques for South Africa and exports from South Africa are also exempt from duties—the principle of freedom of transit.

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authorities with a view to arriving at an understanding in matters relating to the natives in the Transvaal. He is entitled to receive a fee of 1s 6d for every three months in respect of every Portuguese native who has been in the Transvaal for more than one year.

Each native laborer is permitted to carry home sixty kilos of baggage free of duty; and the amount of dutiable merchandise which may be imported beyond this figure is limited. In consideration of these provisions, the Transvaal Government pays to the Mozambique Customs 7s 6d per boy returning from the mines. Every Portuguese native must have a Portuguese pass, and is exempt from the native tax in the Transvaal.

While the original convention contained no provision for compulsory deferred pay, the Portuguese Government insistently demanded it in order to insure the return of Portuguese natives to their homes. The Chamber of Mines finally consented to this system in an agreement signed in 1912, which provided that half of the native wages should be paid to a Portuguese curator who would see that it would be paid to natives upon reaching home. In return, Portuguese natives would be recruited for an eighteen-month period, only the first twelve months of which would be on the deferred pay system.[38] The Union Government declined, however, to approve this agreement, and the former system remained in effect.

The life of the convention of 1909 was fixed at ten years; thereafter, either party could give one year's notice if it wished to terminate it. On April 1, 1922, the Smuts government served such a notice; but negotiations for a new agreement, in which the Union asked for increased control over the railway and port of Lourenço Marques ended only in a deadlock. It was arranged, however, that Part I of the convention dealing with native labor, should be provisionally continued, subject to six months' notice.

This recruiting in Portuguese territory is carried on by an organization established by the Chamber of Mines called the "Witwatersrand Native Labor Association." This association, which has a district manager at Lourenço Marques, has about seventy-five stations in Mozambique, where it employs about thirty Europeans and two hundred and fifty native recruiters, as well as two hundred native runners who receive a fee of ten shillings for each native recruited. Unlike recruiters of the Native Labor Corporation which operates in South Africa, the recruiters of the W. N. L. A. are paid a salary and devote their whole time to the job. The W. N. L. A. makes no advances to natives as does the Native Labor Corporation.[39]

[38] *Report of the Witwatersrand Native Labour Association, cited,* 1913, p. 6.
[39] Cf. the *Report of the Native Grievances Inquiry,* 1913-1914, U. G. 37-1914 para. 531.

A native in Portuguese territory wishing to work at the mines goes to one of the stations of the W. N. L. A., where he is kept until a batch of recruits is collected. Walking from station to station under a conductor, these recruits finally arrive at a divisional camp where they are forwarded, sometimes by rail and sometimes by steamer, to the frontier station of Ressano Garcia.

4. *Portuguese Labor System*

While the success of the W. N. L. A. in recruiting has been partly due to efficient and sympathetic management, it has also been partly due to the labor policy of the Portuguese Government.

Until recently the Portuguese Government, alone among the governments of Africa, openly enforced compulsory labor for private purposes.[40] Under the best administration, such a system of legalized compulsion was open to grave abuses; and as applied in the Portuguese colonies, it was repeatedly and harshly criticized by foreigners.[41]

Apparently as a result of this criticism and of the influence of the League of Nations, the Portuguese Government in 1926 abolished compulsion for private purposes and declared that forced labor could be employed only when "absolutely indispensable for the public good and in very urgent cases."[41a]

If this new decree is really enforced, the W. N. L. A. may find difficulty in recruiting labor. Under the old system many natives preferred to escape the rigors of the Portuguese régime by accepting employment on the Transvaal mines.

The question as to whether or not the importation of Portuguese labor is socially desirable from the standpoint of Mozambique and of South Africa has been frequently debated. Before 1914, the W. N. L. A. recruited labor in Mozambique north of twenty-two degrees south latitude. But such natives could not stand the semi-temperate climate of the Rand plateau, and many died. The mean death rate between 1905 and 1912 was 88.13 per thousand. The death rate of the tropical natives was five and

[40] The Decree No. 951 of October, 1914, authorized the government to place natives, not otherwise employed, at the disposition of colonists or merchants. Cf. *Compilação de todas as disposições legais em vigor referentes a indigénas, incluindo o Regulamento da Secretaria dos Negócios Indigenas, Regulamento de Trabalho Indigena, Acôrdos e Convenções, Concessão de Terranos,* etc., 1919 Lourenço Marques, p. 73.

[41] One of the latest criticisms is contained in the report by Professor E. A. Ross, on *Employment of Native Labor in Portuguese Africa,* New York, 1925. The Portuguese Government denied the accuracy of the charges in a document submitted in 1925 to the Temporary Slavery Commission of the League of Nations, called *Some Observations on Professor Ross's Report.*

[41a] Decree No. 12,533 of October 23, 1926, *Boletim Oficial da Provincia de Moçambique,* November 27, 1926, p. 351.

a half times as great as that of the Cape natives.[42] Following a debate in the Union parliament in 1914, the government prohibited recruiting in areas north of this parallel. Several commissions have since stated, however, that in view of the discovery of a pneumoccal vaccine and the general advance of hygienic conditions, the mortality of these tropical natives would not now be abnormal and that the reason for maintaining the embargo has therefore disappeared.[43]

Following the failure of crops in 1922, and a general depression of industry, the Union Government asked the W. N. L. A. to restrict the recruiting of Portuguese natives, in order to make room for Union natives out of a job. As a result, the number of Portuguese recruited in 1922-1923 fell off by 16,000. In February, 1924, the Union Government asked that recruiting be stopped altogether. In May, the government again authorized it, but on a limited scale.[44]

A number of witnesses before the Economic and Wage Commission in 1925 urged the exclusion of all East Coast natives on the ground that it artificially depressed the Union labor market.[45] But the Commission declared that in view of the manifest labor shortage in South Africa, this action would be very costly. Moreover, the mining industry, which employs Portuguese labor, is an "industry steadily exhausting the material on which it depends, and therefore destined at some time to disappear." It continued: "From an exclusively Union point of view it would appear, therefore, to be expedient to work it in part by imported labour, which will not remain as a liability when the industry declines. . . ." The mines prefer to employ Portuguese labor rather than Union labor because it costs less, it is not so likely to desert, and because it is more steady in supply. The Chairman of the W. N. L. A. recently stated that "From the length of service standpoint, the contracted Portuguese native is apparently the equivalent of two contracted Union Natives." [46] The maximum and minimum number of Portuguese natives employed has never varied more than eleven thousand, while the number of Union natives employed has varied nearly forty thousand.[47]

It would appear, however, that the employment of Portuguese natives

[42] *Report of the Tuberculosis Commission,* U. G. 34-1914, p. 199.

[43] *Report of the Low Grades Mines Commission,* 1921, paras. 113 and 114; *Report of the Mining Industry Board,* U. G. 39-1922, paras. 158 and 159.

[44] It is believed that the Union Government imposed these restrictions also to bring the Portuguese Government to accept its terms in regard to the control of Lourenço Marques. Cf. R. L. Buell, "The Struggle in Africa," *Foreign Affairs,* October, 1927.

[45] U. G. 14-1926, *cited,* par. 267.

[46] *Report of the Board of Management, Witwatersrand Native Labour Association, cited,* December, 1924, p. 23.

[47] *Ibid.,* 1922, Chairman's speech.

lessens the bargaining power of Union labor. The Minority of the Economic and Wage Commission declared that the effect of "importation is to keep down the standard of living of the native workers of the Union." It further stated: "This, in turn, keeps down the standard of wages for unskilled white workers, who, if they wish to compete with natives, must take a wage which compells them to live as what are popularly known as 'white kaffirs.' . . ." [48] Despite the fact that the Portuguese Government derives a revenue of about eighty thousand pounds annually [49] from emigration fees, some Portuguese have pointed out that Mozambique is really impoverished by this export of labor to the Transvaal mines. For the last several years, the Portuguese Government has employed British engineers to install an irrigation project in the basin of the Limpopo river. It is believed that the area made available for agriculture by this project will absorb at least a hundred thousand natives—or more than the number of Portuguese natives now employed on the Rand mines. It is possible, therefore, that the Portuguese Government, foregoing revenue from emigration in favor of this new and more profitable project, will prohibit emigration in the future.

Ordinarily, a native would be better off working at home than in a foreign country. But because of the reputation of the Portuguese Government for its treatment of native labor, this principle does not necessarily apply here, since the native on the Rand mines is treated comparatively well.

Nevertheless, the mortality rate of the East Coast boys is about twice that of Union natives, which shows the effect of working a long distance from home.[50]

More than two-thirds (one hundred and twenty-five thousand out of one hundred and seventy-five thousand) of the laborers employed on the mines comes from the Union of South Africa and the Protectorates. About eighty-five thousand out of the one hundred and twenty-five thousand natives come from the Cape Province, chiefly the Transkei. About eighteen thousand come from Basutoland and about ten thousand from the Transvaal. The native territory of the Transkei and, to a lesser extent, of

[48] U. G. 14-1926, p. 325.

[49] *Fixa a Despesa e Orça a Receita da Província de Moçambique, 1925-1926,* Vol. II, p. 19.

[50] Between 1912 and 1918, the mortality rate of the Union native ranged from 12.6 to 14.67; of the British Protectorate native, from 27.9 to 22.51; of the Portuguese native, from 32.9 to 29.09. *Report of the Department of Native Affairs,* U. G. 7-1919, p. 115. In 1921, the death rates for the East Coast and Union boys were 15.20 and 8.12 respectively. *Ibid.,* U. G. 34-1922, p. 36. In 1926, the death rate of East Coast natives was 11.24; of Union natives, 6.36; of British Protectorate natives, 11.42—an average for all natives of 9.05 per thousand.

Basutoland is the chief labor reservoir, since the recruiting of natives living on European farms is virtually prohibited by law.[51]

5. *The N. R. C.*

The recruiting of labor within these British territories is in the hands of the Native Recruiting Corporation, an offshoot of the Witwatersrand Native Labor Association, which came into existence in 1904. While the organization is not allowed to pay dividends, it can make refunds to its shareholders—the mines—of capitation fees, and it has established a Reserve Fund.[52] Each member deposits a certain amount in accordance with its labor complement or needs, and pays capitation fees fixed by the association for each unit of labor received. Both the Native Recruiting Corporation and the W. N. L. A. are subsidiaries of the Chamber of Mines, and between them, they hold a recruiting monopoly of mine labor.

This association has divided up part of the Cape Province and Natal into recruiting districts. The agents who actually do the recruiting are usually traders, assisted by native runners. They are paid a commission of two pounds a boy, out of which they pay their runners. The laborers thus recruited sign a contract before an administrative official who must see that they understand its terms. They then receive a medical examination; and after being given rations and a blanket, they are put on a train for Johannesburg. The cost of transportation and rations is deducted from their wages. Five labor trains run to Johannesburg a week—two from the East Coast and three from the Cape. Upon arriving, the boys of both the W. N. L. A. and the N. R. C. are sent to a Central Depot, which handles from two thousand to six thousand boys a week. Here a Native Affairs officer again explains the contract to the boys; their clothes are fumigated; they give themselves a thorough washing, and are given a medical examination and vaccination for smallpox. After having their finger prints taken, the boys are sent to a mine needing labor. At the mine, a company doctor gives each boy another examination; and if passed, he is given a number and a pay book, and after a short rest, goes to work.

6. *Criticisms of Recruiters*

Because of unscrupulous recruiters, among other factors, the recruiting of labor in South Africa has been subject to many abuses in the past. An attempt to minimize these abuses was made by the Native Labor Regu-

[51] The Native Labor Regulation Act, 1911, para. 13 (e) says that no person shall enter upon private property for the purpose of recruiting without the previous consent in writing of the owner or occupier. The effect of recruiting upon the Transkei and Basutoland is discussed in Vol. I, pp. 105, 186.

[52] Articles of Association, para. 3 (25).

lation Act, 1911, which provided for the annual licensing of all labor agents[53] at the discretion of the Director of Native Labor, at a fee varying, in accordance with the nature of the license, from one to fifty pounds. An agent must also secure permits from the magistrate for his runners. Each agent must sign written contracts with the laborers whom he recruits, attested by an official, and every native laborer must be registered in the name of the person on whose behalf he is employed. No person shall make contracts for labor with any owner of land on which natives reside, misrepresent terms of employment, or induce natives already under employment to break their contracts.[54] No labor contract may require a laborer to work more than three hundred and sixty working days. Notwithstanding these legal safeguards, "a considerable number of false representations and unfulfilled promises" have been incidents of the recruiting system in South Africa. As long as they are on a commission basis, recruiters are not likely to be "too scrupulous" as to the methods used in recruiting labor. The attesting of contracts by officials, according to an authority,[55] is largely a meaningless formality; the real protection against misrepresentation is common knowledge of the conditions of employment. While labor recruiters in the Union do not use the methods of compulsion employed elsewhere in Africa, they have ensnared natives by means of cash advances. They will loan natives a sum of money; and in order to repay such an advance, the natives must in most cases go to work on the mines.

In 1918, a Natal committee said: "A system of making advance payment of wages to natives obtains in the Natal Province to an extent unknown in other parts of South Africa and which has its parallel only in the conditions in Pondoland in 1906, when the Government of the Transvaal and the Cape intervened to stop the disgraceful and demoralizing practices connected with advances in cattle which were given to mine labourers at the time of recruitment.

"At almost every centre visited, witnesses testified to the fact that some ninety per cent of the permanent labourers employed had been given advances against wages ranging from small sums to twenty pounds. . . . Although witnesses, both Europeans and natives, almost unanimously condemned the system, they indicated their inability to depart from it without prejudicing the labour supply. . . . Clearly, when capital is absorbed in respect of unearned wages it is not being utilized to the best advantage." [56]

[53] As well as compound managers. Persons employing natives in agriculture or less than twenty natives do not require licenses personally to engage natives for their own employment.

[54] Articles 4-13. For the act and commentaries, cf. C. G. Wiggett, *The Native Labor Regulation Act,* Cape Town, 1924.

[55] *Report of the Native Grievances Inquiry,* U. G. 37-1914, *cited,* pp. 72 ff.

[56] Quoted, *Report of the Inter-Departmental Committee on the Native Pass Laws,* 1920, U. G. 41-1922, p. 17.

The effect of advances upon the number of natives recruited is shown by the fact that, following regulations restricting advances in 1914, the number of laborers recruited fell from one hundred and fifty thousand to one hundred and thirty-three thousand. The President of the Native Recruiting Corporation said [57] that since the regulations were declared *ultra vires* by the Supreme Court, "the effect of them has happily been less formidable than might otherwise have been the case. . . ." He further stated: "The present is a time when an ample and consistent supply of labour is of vital importance . . . and at this juncture, therefore, I feel that it is unfortunate that the Native Affairs Department has seen fit to risk the consequences of a change in these regulations."

Boys who have accepted advances have a greater incentive to desert than other boys, since the former have nothing to work for except to pay off bad debts—the sums being deducted from their pay. Some natives accept advances from a number of recruiters—a practice which breeds dishonesty. In an effort to reduce these abuses, parliament passed the Natives Advance Act in 1921, under which regulations were issued limiting advances to two pounds.[58] The act also limits advances to natives under employment. This act did not prohibit, however, a trader-recruiter from extending credit to natives and after a few months obliging them to go to the mines in order to pay their bills. An African speaker at the fourth African Labor Congress,[59] said:

"After the reaping season, the Magistrates compel people to pay their taxes, knowing full well that they had no money, and that they would be compelled to sell their mealies for eight shillings per bag or even less; and in many cases they were compelled by circumstances to exchange bags of mealies for worthless shop-goods. At least four bags have been sold to pay the Government tax. Shortly after reaping season, the Native has no food, and is forced to buy his own mealies back at one pound for a half-filled bag. He goes on buying his mealies back on credit until he is hopelessly in debt. The trader, who is also a recruiter, now steps in and demands his money. The position is obvious; the man has either to go to the mines or have his cattle sold. Of the two evils, most Natives go to the Mines."

This picture is over-painted, since the government fixes the date for the collection of taxes after the harvest. It nevertheless shows the advantage which trader-recruiters may take of native improvidence. This same practice of credit exists in Basutoland. Legislation similar to that adopted in Tanganyika making debts of natives to non-natives non-

[57] *Report of the Native Recruiting Corporation,* 1916, p. 11.
[58] Unless the contract is for nine months, when it may be three pounds. Wiggett, *cited,* p. 33.
[59] *Workers' Herald,* May 15, 1926.

enforceable in the courts would do away with this abuse, which is apparently as great an abuse as advances were before the Act of 1921.[60]

Moreover, according to the Native Grievances Inquiry held in 1914, "There is obvious danger of illegitimate influence being brought to bear upon natives through their chiefs so long as there is any pecuniary advantage to be attained; but I have no positive evidence that this is, in fact, being done." [61] Owing to the decreasing power of the chiefs, this type of influence now seems to be on the wane.

Government regulations provide [62] that the holder of a Labor Agent License shall not engage in the sale of intoxicating liquors. Nevertheless, charges have been made that recruiters get natives under the influence of liquor.

These efforts to induce laborers to go to the mines are an expensive business. [63] The total expenses of the Native Recruiting Corporation were nearly three hundred and twelve thousand pounds in 1925, and those of the Witwatersrand Native Labor Association were one hundred and fifty thousand pounds, or six pounds a man—sums which would be saved under a system of purely voluntary labor.

Because of the abuses of recruiting and the wage monopoly which has accompanied the system, demands for its abolition have been made. In an editorial, an extremist native paper declared, "This criminal recruiting system must go at once." [64] At a conference of the African Industrial and Commercial Union, a resolution was passed asking the Government to convene a round-table conference "with a view to abolishing the recruiting system." [65] The Director of Native Labor, a government official, declared in 1922 that the present system of recruiting was "an expensive system for the mines and bad for the natives."[66]

According to the mines, the ultimate aim of the industry is "as far as possible to obtain its supply of native labour without the assistance of recruiters." [67] But they are afraid that with the abolition of the recruiting organization, some natives would stop coming to the mines. This is an admission, of course, that the present labor supply is subject to some form of pressure.[68] It appears, however, that the growing pressure on means

[60] For the resolutions of the Transkei Council, see Vol. I, p. 107. For the Tanganyika law, cf. Vol. I, p. 476.

[61] *Report, cited,* p. 77. [62] Government Notice 2091, December 17, 1924.

[63] The cost of recruiting has, however, considerably declined, from 83s 10d per native in 1913 to 62s 7d in 1922. *Mining Industry Board,* U. G. 39-1922, *cited,* p. 19.

[64] *Workers' Herald, cited,* July 21, 1923. [65] *Ibid.,* April 28, 1926.

[66] Quoted, *Report of the Mining Industry Board,* U. G. 39-1922, *cited,* p. 19.

[67] *Ibid.,* p. 19.

[68] The number of deserters on the mines had, however, decreased from 5.9 per cent of the supply in 1912 to 2.21 per cent in 1918, (*Report of the Department*

of subsistance in the reserves will force the natives out in the future, without the aid of a recruiting organization. Already about sixty per cent of the Union natives are "volunteers." But the mines are not yet willing to rely upon this pressure alone, because of the chronic labor shortage.[69]

From the native standpoint, the recruiting organizations offer facilities for going to the mines and returning to reserves, which would not exist under a purely voluntary system. But the establishment of government labor exchanges would furnish the same conveniences, without the abuses of the present system.[70] The majority of the Economic and Wage Commission did not, however, share the belief that the recruiting system should be abolished. It declared that the recruiting system was inevitable, unless the industries that depend on the labor of natives drawn from districts outside the area in which they are carried on are to be sacrificed; or unless natives brought their families and settled permanently in the mining district. "Neither alternative can, in our opinion, be recommended." [71] The Commission did not give any reasons for this statement. But if the recruiting system is to be maintained, its abuses could be still further minimized by abolishing the system of advances and credit to natives and by placing all recruiters on a fixed salary.

The effect upon the native of recruiting and of working in European centers will be considered in the next chapter.

of Native Affairs, 1913-18, U. G. 7-1919, *cited,* p. 114,) which indicates less involuntary employment than on the Katanga mines where the desertion rate is fifteen per cent and twenty per cent. Cf. Vol. II, p. 554.

[69] Cf. Vol. I, p. 17.

[70] The Minority of the Economic and Wage Commission favored such a proposal. *Report, cited,* p. 332.

[71] *Ibid.,* p. 157.

CHAPTER 3

THE INDUSTRIALIZED NATIVE

When a boy arrives at a mine from the Central Depot, he usually works underground eight hours a day.[1] The rest of the time he ordinarily spends in what is called a compound. A compound is a barracks, composed usually of a quadrangle of long brick buildings, which encloses from four to ten acres of land, and which accommodates from one thousand to five thousand native laborers. Within the buildings are long tiers of bunks, usually made of cement, with a "Perfecto" surface, upon which the natives sleep. Every compound has its kitchen where a special native staff prepares food, subject to government requirements, and issues kafir beer. In the "open compounds," boys may go into the towns after work provided they receive passes, which are freely given. In the so-called "closed compounds," which prevail on the diamond mines, the mines forbid boys to leave the compound until the end of their contracts, out of fear of the theft of diamonds. When their contracts are terminated, they are even given a purgative to make certain that no diamonds are carried away inside! Despite the fact that the closed compounds impose greater restrictions upon the native than the open compounds, employment with the Kimberley mines—where this system prevails—is popular. Amusements are provided within the compound; and the boys are spared some of the vices and the wasteful expenditures of the outside world.

1. *Physical Treatment*

Conditions of labor on the mines are controlled, to a certain extent, by the provisions of the Native Labor Regulations Act, 1911. This act applies, however, only to labor districts proclaimed by the Governor-General. In 1924, there were sixteen such districts in the Transvaal, four in the Orange Free State, two in Natal, and two in the Cape Province—a total of twenty-four. The act does not apply to agricultural labor.[2]

Regulations issued under this act require employers to provide hospital accommodations sufficient for 2½ per cent of the total number of men under employment at any given time. For each patient, eight hundred

[1] This does not include the time consumed in going and coming.
[2] Wiggett, *cited,* p. 88.

cubic feet of air space should be provided. This hospital accommodation is gratuitous.

Regulations also prescribe a minimum ration scale, composed of twenty-four ounces of mealie meal, six ounces of bread, three ounces of beans or peas a day, with three-fourths of a pound of meat a week, and other elements. In the compounds, two hundred cubic feet of air space for each laborer must be provided, and not more than two tiers of bunks.[3]

As a result of the combined efforts of the mine operators [4] and the government, the physical living conditions on the Transvaal mines are probably as good as they are anywhere in Africa. This is demonstrated by the great decline in mortality rates. In 1903, the average native mortality rate was 71.75 per thousand,[5] but in 1919, it had fallen to 16.74; in 1920, it was 18.24; in 1921, 14.70; in 1923, 14.37; and in 1924, 12.39;[6] and in 1926, 9.05 per thousand. In England, the mortality rate for all inhabitants is 12.2 per thousand, while in France it is 17.3 per thousand.[7] Of the Transvaal rate, in 1924, 2.90 deaths per thousand were due to accidents and 9.49 to disease.

Before the World War, a great many complaints were made regarding the treatment of native labor on the mines. Following a native strike in 1913, the government appointed a commissioner to inquire into native grievances. He found that a complaint which was all but universal throughout the mines was that "natives are frequently assaulted by Europeans, generally underground."

"A certain number of such cases seems inevitable when the conditions of the work are considered. The mines consist of an enormous mileage of tunnels, in which a number of Europeans, many of them of no high standard of education or ethics, are each in practically unchecked control of several members of a subservient race. As a rule, neither the master nor the servant understands the other's language, yet the master has to give directions and the servant to obey them. Both parties are working under unhealthy and unnatural conditions. In these circumstances, the temptation to and the opportunity for assaults on the servant by the master are constantly present; and these circumstances may perhaps be modified, but cannot be altogether removed." [8]

Since this report, the rigorous attitude of the mine managers has brought about a reduction in the conditions giving rise to these complaints.

[3] Special regulations for different districts are also laid down. *Ibid.*, p. 81.

[4] Before the War, Surgeon General Gorgas and other American experts studied health conditions on the mines at the request of the Chamber of Mines.

[5] Return 205, *Accounts and Papers*, LXI (1904), Diagram No. 1.

[6] *Annual Report, Transvaal Chamber of Mines*, 1924, p. 35, also *Report of the Native Affairs Department*, U. G. 34-1922, *cited*, p. 35.

[7] *Annuaire Statistique*, published by the French Ministry of Labor, 1924, p. 202.

[8] *Report of the Native Grievances Inquiry*, U. G. 37-1914, *cited*, p. 7.

According to the Native Labor Regulations, every case of assault should be reported to the Native Affairs Department of the government, which maintains labor inspectors in the mining area. Likewise, the Chamber of Mines maintains a European supervisor underground to hear complaints.

Every compound is in charge of a European manager assisted by a number of native "indunas" and police boys.[9] Inasmuch as one European manager is in charge of several thousand boys, he is obliged to rely on these native police for maintaining discipline. According to the Native Grievances Inquiry,[10] "Allegations of habitual assaults are common. . . . There were also many complaints that the compound police took too much upon themselves, interfering with natives who wished to speak to the compound manager, and generally usurping the latter's functions. This must always be the tendency of a body of this kind; and it is an abuse which needs constant watching by compound managers." According to one opinion, even the best of the native police "degenerate"; consequently, frequent changes are desirable.

While it appears that conditions in these respects have improved within recent years, the Industrial and Commercial Workers' Union [11] presented a charge that indunas accepted bribes from natives in return for certain privileges. In the last few years, however, the government has been obliged to prosecute only one compound manager for corruption upon whom exemplary punishment was imposed.

The Economic and Wage Commission reported:

"Complaints of unjust, harsh and illegal treatment of natives in various industries and compounds were made to us. . . . Into a number of these cases the Director of Native Labor, or his department, had made inquiries and several were found to have been correctly stated. . . . It was not within our sphere to make a detailed examination of these complaints. Even if there is no ground for them, the fact remains that a belief in their reality does exist in the minds of a number of natives. There is always a danger, when large numbers of persons have to be dealt with, of treating complaints in an offhand manner. Any discontent on the part of the natives with the treatment meted out to them is bound to affect their willingness to come out to work and their efficiency. From every point of view, it is desirable that the most generous and careful consideration should always be given to complaints by natives." [12]

[9] At the Robinson Deep mine, one police boy is in charge of four barracks, each containing forty men. The induna is a sort of chief of native police.
[10] *Ibid.*, p. 19.
[11] Commonly called the "I. C. U." Cf. Vol. I, p. 128 [12] U. G. 14-1926, p. 332.

2. *Desertion*

A native working on the mine, under a contract, cannot "desert" without committing an offense and becoming liable to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a term not exceeding two months. While in European and American countries, an employee who breaks a civil contract is liable only to civil action, the South African native is liable to imprisonment.[13] Between five and six thousand natives desert in the proclaimed labor districts of the Transvaal annually —about 2.25 per cent of the number under employment. Between fifty and sixty per cent of the deserters are recovered by the police.[14] This penal sanction makes illegal a strike of native laborers—a fact of importance in connection with the organization of native labor unions.[15]

The Minority of the Economic and Wage Commission declared that as a result of these anti-desertion provisions, a "feeling tends to be established that the manual worker—whatever his colour—belongs to a different species of animal from other human beings." It continued: "Those provisions also help to maintain the tradition that manual work is degrading for white people which . . . has had serious consequences in the creation and continuance of the poor white problem. Economically, these Acts operate to prevent natives as a class from bettering their position. . . ."[16] The Minority was of the opinion that the penal sanction embodied in these acts was "economically and socially unsound. . . ." It believed that these provisions should be gradually repealed.

Moreover, a native in employment is guilty of an offense[17] if he neglects to perform any work which it is his duty to perform; unfits himself for work by being intoxicated during working hours; refuses to obey the lawful command of his employer; uses insulting or abusive language to his employer or any person in authority; or commits a breach of any rules prescribed for good order, discipline or health. Violations of these offenses are punishable by a fine not exceeding forty shillings, which is deducted from the native's wage.

[13] For a further discussion of the penal sanction, cf. Vol. I, p. 500.
[14] *Report of the Native Affairs Department,* U. G. 34-1922, *cited,* p. 35.
[15] Cf. Vol. I, p. 125.
[16] *Report of the Economic and Wage Commission,* U. G. 14-1926, *cited,* p. 329. The Minority states that most of the farmers testified that they never invoked these provisions because prosecution involved them in waste of time. They believed the system should be continued, however, because of its moral effect upon their laborers. But one witness testified that in the Western Province the Masters and Servants Act was harshly enforced. Professor Radcliffe-Brown stated that under native law there was no such thing as contract, the nearest approach to it being debt. The native therefore felt no stigma in going to jail for violating a contract.
[17] Cf. Paragraph 19 (3), Native Labor Regulation Act.

On the other hand, the employer is obliged to feed, house, and provide medical treatment for his employees. If he, without the consent of the director of native labor, withholds wages from any native laborer, or makes illegal deductions, he is liable to a penalty, at the discretion of the magistrate, who may also give judgment for the amount of wages wrongfully withheld. Neither the act nor the regulations provide penalties for abusive treatment of labor by the employer. Presumably, they are covered by other laws.

In order to secure the application of these labor regulations, the government has made provision for a Director of Native Labor, who is an official in the Native Affairs Department. Under him are three native subcommissioners who in turn supervise the work of a number of inspectors and "pass" officials who periodically visit the compounds and mines. These inspectors have the power to arrest and impose fines up to forty shillings upon natives for committing the offenses mentioned above; but they apparently have no jurisdiction over employers.[18] The latter are subject to penalties prescribed in particular regulations.

3. *Wages.*

As early as 1897, the mines agreed upon a uniform wage for native labor. At that time, the average wage paid on the mine was about two shillings a day.[19] But at the present time, the average rate of pay per day for all classes of native labor is only 2s. 2d.[20] Thus the average native wage per day on the Transvaal mines to-day is about the same as it was in 1897. Moreover, it appears that the schedule adopted in 1897 reduced previous wages about one-third.[21] It would therefore appear that native cash wages to-day are much lower than in 1896, particularly as a native wage is now subject to deductions for transport, which originally were borne by the employers. Real wages are even lower in view of the diminished purchasing power of the shilling. In 1913, the Economic and Wage Commission verified these conclusions by stating that "although fluctuations have occurred, the rates are lower than in 1896 in spite of the greater efficiency of the native and the increasing economic pressure upon him due to expanding wants, the imposition of taxes, and other incidents." In contrast, the annual earnings of Europeans on the mines have increased

[18] Art. 19, Native Labor Regulation Act, 1911. Cf. the index to Wiggett, *cited,* "Offenses."

[19] This is the average of about forty-five different kinds of work. See Annexure 11, U. G. 37-1914, *cited,* p. 36.

[20] *Report of the Mining Industry Board, cited,* p. 32. The Minority report of the Economic and Wage Commission puts it at 2s. 2.8d, which includes piece work. Cf. the *Report of the Economic and Wage Commission,* U. G. 14-1926, *cited,* p. 351.

[21] U. G. 37-1914, *cited,* p. 36.

from three hundred and fifty-two pounds a year in 1907 to four hundred and ninety-five pounds in 1921.[22] The Low Grade Mines Commission declared that to increase native wages to the extent to which European wages increased during the War—or forty per cent—would impose a burden on the mines of two million pounds a year.[23]

The contrast between native and European wages is not as great as these figures would indicate, however, because the European as a rule feeds and houses himself, while this burden in the case of the native is borne by the employer under the compound system. Even taking this factor into consideration—and it is a factor which may easily serve as a pretext artificially to depress wages—it appears that natives working on the mines are still underpaid, due to the labor monopoly of the recruiting corporations, the "color bar," and the land situation.[24] The government does not fix a minimum wage for natives. While it has the power to impose such a wage under the Wage Act,[25] any such action is subject to the fact that much of its revenue comes from mining activities, whether in the form of taxes on profits or income, or of government royalties.[26]

The establishment of a native minimum wage would not only increase efficiency and remove a grievance, but it would also relieve the pressure on the "Poor White" who is being gradually reduced to the natives' level.[27]

A good deal of the labor employed on the mines is paid not by the day but by piece work. In exceptional cases, a native working by this arrangement can make ten shillings a day, although the average of all wages is between two and three shillings. The extension of piece work is moreover curtailed by the "maximum average" clause in the rate schedules issued by the Native Recruiting Corporation, which provides that the average earnings of natives engaged on piece work in shovelling and tramming shall not exceed a given amount. If these average rates are exceeded, the mine may be fined by the controlling authority. The object of the "maximum average" is to prevent one mine from offering higher rates for piece work than other mines, to entice outside labor. But the effect of the clause has been that "whenever the general run of natives on this work becomes

[22] *Year Book, cited,* p. 490. For some reason, the average dropped to three hundred and seventy pounds in 1923.

[23] *Report, cited,* para. 195.

[24] Cf. Vol. I, p. 76. A few native servants in Johannesburg receive, however, as much as six pounds a month, which is as much as white servants receive in England.

[25] Cf. Vol. I, p. 66.

[26] The government received in 1914-15 mining revenues amounting to 1,877,349 pounds; in 1920-21, 4,738,988 pounds; and in 1922-23, 2,593,494 pounds. *Year Book* No. 5, p. 810. *Year Book,* (No. 7), *cited,* p. 741. In 1922-23, the total revenue was 27,234,515 pounds; of which the customs produced about 5,761,563, and an income tax, 5,205,038. Part of this income tax is, however, included in the mine revenue.

[27] Cf. Vol. I, p. 85.

more efficient, the management is compelled to reduce the rate, thus actually penalising efficient work." [28] As a result of the maximum average clause, the rate of lashing and tramming has been reduced from 8s to 1s 9.2d per shift. In another case, a mine reduced its tramming rate from 1s per truck to only 5d per truck—which led to the loss of a thousand laborers. Occasionally the maximum average is increased; but it appears that the last time that this was done was in 1918. It was the opinion of the Mining Industry Board that while under existing rates natives so far had not been prevented from earning high wages, "native efficiency and output of work will be so improved that many miners will find it difficult, if not impossible, to keep within the limits imposed by the 'maximum average' clause, without introducing a cut in their rates of native pay for piece work." It believed that the mines should increase the "maximum average" with the increased efficiency of the labor.[29]

The Economic Commission, in 1913, also said: "Your Commissioners feel no doubt that the productive powers of the native are being held in check, while at the same time, a sense of injury is being generated by the device of the maximum average in particular, and in general by a failure on the part of the gold mines to pay natives more frequently on a system which furnishes an incentive." [30]

It appears that the demand for higher pay among the natives is well-nigh universal. The Native Grievances' commissioner said: "The only mine where this claim was not put forward was one where, a month before my visit, the natives had actually gone on strike for an increase." [31] In 1922, the Mining Industry Board reported that certain witnesses declared "there was great discontent amongst the natives regarding the insufficiency of their pay; and that an increase would be more than compensated for by an improvement in efficiency. Some witnesses went so far as to suggest that unless something were done in the matter, there would be a grave danger of a strike for higher wages." [32] The same complaint was made before the Economic and Wage Commission by the "I. C. U." in 1925. The dissatisfaction of the native is increased by the fact that on semi-skilled work such as drill-sharpening he receives only 3s a day, while a European, doing the same work, receives 20s.

4. *Deferred Pay*

To encourage the natives to save their money instead of spending it riotously in Johannesburg, the Chamber of Mines has inaugurated a sys-

[28] *Native Grievances Inquiry, cited,* p. 37.
[29] *Report, cited,* p. 33.
[30] *Report,* U. G. 12-1914, *cited,* para. 54.
[31] *Report of the Native Grievances Inquiry, cited,* p. 36.
[32] *Report,* U. G. 39-1922, *cited,* p. 32.

tem of voluntary deferred pay. Under this system, the mines will, at the request of a native, withhold a portion of his wages to be paid upon his return home. In 1925, 31.2 per cent of the natives (excluding the Portuguese) took advantage of the system; and deferred sums amounted to 94,546 pounds. In 1924, the percentage fell to 29.4 per cent, but the sums increased to 148,063 pounds.

The native has made more use of the Remittance Agency established by the mines, a sort of money order arrangement whereby he may transmit money home without charge, than of the system of deferred pay. In 1925, 33,728 remittances were issued for a total amount of 122,284 pounds.[33] The Portuguese Curator also maintains a Remittance Agency for the Portuguese natives. Thus out of total wages amounting to about 6,800,000 pounds, natives saved through these two means about 217,000 pounds. Many of them, however, take money home with them. Estimating the situation conservatively, one may say that the natives spend half of their earnings in labor areas in uneconomical if not harmful ways.

According to a recent report of the Native Recruiting Corporation, "it is regrettable that the Voluntary Deferred Pay System has not developed as was anticipated. . . . This system was established with the view to encouraging thrift—a virtue in which the natives are notoriously wanting. . . ." [34] In view of the great temptations to spend money in Johannesburg the installation of compulsory deferred pay might be desirable. It would, however, be strenuously opposed by the European commercial and trading interests on the Rand.

5. *Accident Compensation*

In the event of accidents, employers are liable to pay compensation assessed by the Director of Native Labor. Payments may range from one to twenty pounds in cases of partial incapacitation, and from thirty to fifty pounds, for permanent incapacitation or death.[35] Under these provisions, a totally incapacitated native receives compensation, if the max-

[33] *Report of the Native Recruiting Corporation, cited,* 1925, p. 9.

[34] Chairman's address. *Ibid.,* p. 9. While a native himself does not receive interest on deferred pay, interest on global sums is paid into a fund for the improvement of native life in the compounds.

[35] Native Labor Regulation Act, para. 22. Prior to 1914, a family received only ten pounds for the death of a native. Regulations provide that the estate of a native who dies at work should be administered, on behalf of his family, by officials.

If an employer disputes the compensation payable or fails to pay, the matter shall be determined by a board composed of the magistrate, a nominee of the employer, and a medical practitioner. Natives do not come under the Workmen's Compensation Act, 1914, which applies only to Europeans.

imum is paid, equal to wages for only twenty months' continuous work, in comparison with a totally incapacitated European who receives as compensation the equivalent of his salary for three years' continuous work. Making allowances for differences in wages and the free transport and hospital treatment which the native receives, the compensation paid the native is only about half that paid the European. Moreover, the maximum sum payable to a native is fifty pounds, compared with seven hundred and fifty pounds payable to a European. When it comes to temporary incapacitation, the native is better off. He gets two-thirds of his pay during an unlimited period of time, while the European gets half of his pay for six months only.[36] Perhaps the most dreaded by-product of the mining industry is miners' phthisis, or tuberculosis. Since 1912 legislation has provided for liberal compensation for European miners contracting this affliction, who may receive eight pounds a month, the total not to exceed three hundred pounds.[37] Until 1919, however, natives contracting phthisis merely received the compensation payable for incapacitation. Thus the European received about ten times the compensation of the native for the same disease.[38] This discrimination was rectified by the passage of the Miners' Phthisis Act in 1919, which provides for more adequate payments.[39] In 1924, eight hundred and fifty-five Portuguese natives received compensation under this act amounting to nearly 49,450 pounds, in comparison with six hundred and ninety-one such natives who received nearly 11,797 pounds as accident compensation.[40]

[36] *Report of the Native Grievances Inquiry, cited,* p. 50. No compensation is paid when the accident is due to "serious and wilful misconduct," which includes drunkenness, and the wilful contravention of any safety law or regulation.

[37] Miners' Phthisis Act, *Statutes of the Union of South Africa,* 1912, p. 420, *ibid.,* 1916, p. 816.

[38] Before 1914, compensation for the death of a native was twenty pounds less than for permanent incapacitation, which led some mines to neglect to report cases until after the victims died.

[39] Art. 39. (1) "When any native labourer who has not received benefits under this Act or the prior law is found by the Bureau to be suffering from silicosis, there shall, subject to the provisions of this Act, be paid to the Director on behalf of such native labourer—

(a) if the native labourer is in the ante-primary stage, a sum calculated in the manner set out in the First Schedule to this Act;

(b) if the native labourer is in the primary stage, a sum calculated in the manner set out in the First Schedule to this Act but with an addition of fifty per cent. thereto;

(c) if the native labourer is in the secondary stage, a sum calculated in the manner set out in the First Schedule to this Act but with an addition of one hundred per cent. thereto."

First Schedule. "Twelve times that part of the miner's or native labourer's month's earnings which did not exceed £29 3s. 4d; and six times that part of his month's earnings which exceeded £29 3s. 4d. but did not exceed £37 10s.; and three times that part of his month's earnings which exceeded £37 10s."

Miners' Phthisis Act (No. 40 of 1919) Wiggett, *cited,* pp. 164, 166.

[40] *Report of the Witwatersrand Native Labour Association, cited,* 1924, p. 4.

6. *Social Results*

From the standpoint of food and housing, living conditions on the mines have greatly improved, being much better than similar conditions in the towns. Nevertheless, compound natives are subject to the same moral temptations as city natives, since they may go into the towns at night and for the week-end. Few of the mine natives bring their wives to the mines with them. Their families remain in the native territories; and the husband, returning at the end of his nine-months contract, keeps in contact with the country. On the other hand, the town native living and working outside the compound has become, as a rule, completely detribalized; to him the town has become a permanent abode. Consequently, his influence is usually limited to an urban circumference. It is quite otherwise with the mine native. He enters the town, becomes acquainted with European vice and other less desirable aspects of "civilization," [41] and then returns to the reserve, a detribalizing influence. All mine natives are medically examined prior to discharge which gives the country natives some protection. But tubercular natives are repatriated to their homes, where they may give this disease to others.

Furthermore, the mining compounds—in which thousands of men live together under regimented conditions—have become the center of unnatural vice, a native form of Sodomy, called Isokothana. "This loathsome survival of Sodom appears to have reached Rand by way of East Africa, where it is believed to have been introduced by foreigners. Until recent years, cases were so exceptional and the custom so abhorrent that Natives referred to it only in whispers. But such has been the spread of the practice that it is now not only common talk, but money (lobolo) is paid for youths as wives, and Sodomites, impersonating girls in dress and figure sometimes participate in compound dances." [42] The Commission on Assaults on Women was furnished with evidence that "mine boys indulge in certain evil and loathsome practices to satisfy their passions. Such practices can only be checked by enabling laborers to lead a family life." [43] Likewise, as we have seen, the recruited natives live under a régime which restricts their movements, prevents them from going home till the end of of their contracts, and pays them inadequately. The Minister of Mines frankly said in the color bar debate of 1926, "The native is preferred by the mining companies owing to the compound system, pass laws, ap-

[41] Cf. Vol. I, p. 53.

[42] F. B. Bridgman, "Social Conditions in Johannesburg." *International Review of Missions*, July, 1926, p. 575.

[43] *Report of the Commission on Assaults on Women*, 1913, U. G. 39-1913, para. 44.

prenticeship, right of prosecution for desertion, and so on. In fact we cannot deny that the natives of the Witwatersrand—nearly 190,000—are there really in a semi-servile condition, and I have never heard hon. members opposite protest against that." [44]

In order to remedy this situation, General Gorgas, in his report on the mines, advocated the establishment of villages to which mine laborers should be encouraged to bring their families and become permanent, instead of transient laborers. Such an experiment is now being tried in the Belgian Congo.[45] A number of mines on the Rand attempted to carry out this idea by establishing native married quarters. But in the great majority of cases, they have degenerated into brothels and blind-pigs. The sentiment of the mines appears to be against the attempt. Moreover, the present price of land makes any scheme providing for small holdings for natives, not to mention Europeans, impracticable.[46] It is doubtful whether, in view of their attachment to their land and to their fears of city life, natives could ever be persuaded, at least for several generations, to bring their families to town, and cut loose from all contact with the country. Despite strenuous efforts, the experiment in the Congo has not yet proved a success.

A number of South Africans have, as another alternative, proposed that the native laborer be replaced by the white man who, due to his long experience with industrialized conditions, can adapt himself better to this régime than a native. But government commissions and the mine operators have repeatedly declared that the mines could not operate if they were required to pay European wages.[47] The same considerations, according to the mines, prevent them from paying higher native wages. It is generally admitted that the mines, which are low-grade, have a limited life-time. Increased labor charges would mean that some mines would go out of business at once, which would automatically curtail government revenue and reduce European and native employment. It thus appears that the interests of the mine owners and of the natives are incompatible.[48]

[44] *Joint Sitting of Both Houses of Parliament,* May 7th to May 12th, 1926, col. 130.

[45] Cf. Vol. II, pp. 362, 590.

[46] Cf. the *Report of the Small Holdings Commission,* U. G. 51, 1913, which pointed out these difficulties in the case of Europeans.

[47] The Transvaal Mining Industry Commission is an exception. Cf. the *Report of the Mining Industry Board, cited,* paras. 35-36.

[48] The Low Grade Mines Commission declared: "Although the conditions under which natives are employed are continually being improved, as, for example, in such large industries as mining . . . it is clear that the well-being of the native in its fullest sense is not sufficiently considered by the white population of South Africa or the conditions under which they are employed. The chief consideration is the profit and convenience of the European, and the native is beginning to feel

7. *Urban Locations*

Altogether, about 890,000 natives, or about sixteen per cent of the total native population, live in the urban areas of South Africa. About five hundred thousand of these live in the Witwatersrand, as the Johannesburg area is called, together with 227,000 Europeans. Those natives who do not live in mining compounds [49] live theoretically on government locations, or on private premises usually rented from a European landlord. Each South African city has its native location in which the native population must supposedly live, and in which houses are usually rented from the municipality. But until recently, these locations have been uncontrolled, and living facilities have been inadequate for native needs. It is generally admitted that the natives in the large mining compounds receive better treatment than natives living under individual European masters.[50] Conditions became particularly bad in Cape Town following the World War. Before 1919, the native population was confined in the Ndabeni location, about four miles from the center of the city, built twenty years previously for "temporary" uses following a plague. But as a result of the large demand for dock labor, the number of natives in Cape Town increased. As there was no place for them in the location, three or four thousand of them moved into the city. Many of them rented rooms in the famous "District Six" from colored people and the native voters. According to an investigation made by the *Cape Times* [51] in some places as many as ten to twenty natives of both sexes and all ages lived in one room, in a community where illicit liquor selling, prostitution, and in some cases opium dens, operated by Cape Malays, prevailed. In an effort to clean up these conditions, Cape Town is now building a new location at Langa at a cost of 250,000 pounds.

The infant mortality rate of non-European children between 1913 and 1919 in Cape Town was considerably more than twice the European rate—only in one year did the non-European rate fall below 200 per thousand; in 1918-1919, the influenza year, it rose to nearly 299 per thousand.[52]

and to say, with considerable justice on his side, that he is being exploited." *Report of the Low Grade Mines Commission, cited,* para. 137.

[49] According to the 1921 census, (p. 361), there are 173,000 mine laborers in the Witwatersrand area, and 56,000 mine laborers inside the municipality.

[50] There are nine municipal locations along the Rand having a total population of about 24,000. The Rand also has five native townships where natives may buy land and erect houses. About five thousand natives live in some sixty private compounds in Johannesburg; while the city maintains ten compounds to house its native employees. Bridgman, *cited, International Review of Missions,* July 1926, p. 576.

[51] See a series of articles, "The Underworld of Cape Town," *Cape Times,* February, 1922.

[52] Appendix III, *Report of the Housing Committee,* 1920.

In Kimberley, the infant mortality rate was 298.1 per thousand for colored people in 1914, compared with 113 for Europeans. In 1917, the figures were 274.8 and 98.4; in 1918, the influenza year, they were 461.6 and 98.4. In the location near Port Elizabeth and at East London, the ratio was about the same.[53]

A government housing committee reported that "persons suffering from consumption and other infectious diseases are compelled to live and sleep in the same rooms as healthy persons and young children; there can be no privacy or decency in life when a whole family . . . practically all the poorer colored people and many of the poorer white people in Cape Town today are living a family in a room." [54]

While overcrowding may be primarily responsible for disease found in the cities, "The mere change from kraal life to the environment of the labor centre," according to the Report of the Tuberculosis Commission, "adversely affects the health of the average raw native; how much this is due to change of climatic conditions, aggregation, often, in over-crowded compounds, alterations in dress or diet, restriction of freedom, unaccustomed physical strain, or exposure to organisms harmless to ordinary individuals but pathogenic to the uninured raw native, it is difficult to say." [55] The same commission reported in 1914 that tuberculosis was from four to six times as prevalent among colored people as among Europeans in South Africa.[56] This commission declared, ". . . From the point of view of the health of the native, the change which is taking place from barbarism to a condition of semi-civilization is detrimental . . . ; an increased amount of tuberculosis must be looked for as the process continues." [57]

While better housing conditions would undoubtedly improve conditions of health, the wages paid natives in the cities are so low that, according to the Native Affairs Department, "It is impossible to build and hire houses at an economic rent or to require the Natives in building their own to conform to proper standards. . . ." [58] The Housing Committee of 1919 intimated the same thing when it said, "It is practically impossible to dissociate the subject of housing of the poorest classes from the question of a minimum wage." [59]

[53] *Ibid.*, p. 20.

[54] *Ibid.*, 1920, p. 12.

According to the 1921 census (p. 315), "In Cape Town . . . 69 per cent of all occupants of one-room houses were crowded on the average to the extent of 4.5 persons per room, in Durban 73 per cent with 4.7 persons per room, and Pretoria 75 per cent with 5.3 persons per room. In two-room houses conditions were far worse. In the four areas a far larger number of houses (2,400) involving 15,284 persons, showed the extraordinary average of 3.2 persons per room. . . ."

[55] *Report of the Tuberculosis Commission*, U. G. 34-1914, para. 190.

[56] *Ibid.*, para. 230.

[57] *Ibid.*, para. 201.

[58] U. G. 34-1922, *cited*, p. 14.

[59] *Report, cited*, para. 203.

This over-crowding not only produces disease but also immorality and crime. According to the report of a committee to the South Africa Missionary Conference, in regard to Natal, "Prostitution among Native girls is rampant, and in some places just outside Durban there are houses where Native girls are kept for immoral purposes. . . . In Maritzburg many well-furnished rooms, owned and kept by Native women, are known to be the dwelling place of Europeans while they are living in town. . . . It is said by those who are in a position to speak with authority that there are very few respectable and pure Native girls in the town, while venereal disease is on the increase and is becoming a positive danger in many homes where Native female servants are employed. Respectable Native parents whose homes are in the country would rather 'see their girls dead than that they should work in town.' . . ." [60]

A leading missionary and social worker, in an article written just before his death, said that in looking to the moral side of the Johannesburg locations, "it is impossible to escape a sense of depression. The wretchedness and squalor of the environment but too truly typify the poverty and misery of the soul-life of the inhabitants. Drink and the illicit traffic in liquor, together with prostitution, are the overwhelming evils. . . . Fatal brawls are not infrequent; while it is generally admitted that in the average location at least from fifty to sixty per cent of the births are illegitimate." [61] He went on to say that "Johannesburg today possesses slums that for squalor and utter wretchedness can scarcely be rivalled. . . . A comparison of the crime records between 1911 and 1921 (taking only three classes of crime—assaults, thefts, and liquor) shows an increase of eighty per cent. . . . The mixture of races is startling, Chinese and Indian often living with white, Coloured, or Native, while Coloured, Native and low whites mingle indiscriminately. Three, four, or even five children born of the same mother each have a different and unnamed father. In one school of one hundred children, only fifteen or twenty of the fathers can be discovered. . . . Some of the young boys are developing the worst traits of the London street arab. Ready lying, expert thieving and worse are becoming common."

Another aspect of these conditions was pointed out by the Commission on Assaults on Women, which said: "Narrow passages, or so-called yards, exist, into which open the doors of small single rooms which are often let at twenty shillings a month or more each; and in these dwell whites, Chinese, Indians, Natives, and others, on terms of equality, whilst the

[60] *Report of the Proceedings of the Fifth General Missionary Conference of South Africa,* Durban, 1922, p. 79.
[61] Bridgman, *cited,* p. 578.

latrines provided are for the common use of all. . . . It has been pointed out that a class of poor white is becoming more and more degraded; poverty drives them to seek their living by undesirable methods. On the other hand, it is asserted that whilst these whites are sinking in the scale, the natives are rising, and that the poor white children are becoming the dregs of the population." [62]

8. *Illicit Liquor Trade*

In the Transvaal, the sale of European liquor to natives is prohibited by law, as it is in Natal. Nevertheless, there is a large illicit trade.[63] In 1923, four hundred and twenty-nine Europeans and six hundred and seventy-two non-Europeans were committed to prison for illicit liquor sales.[64]

We are informed by the commission whose report we have already cited, that "Amongst illicit dealers are to be found a very large proportion of indigent whites, largely South African born, who are driven by poverty to make a living by such means. . . . A shocking feature in this matter is the employment of white women and children of both sexes in the trade. Such women have been known to allow natives to have illicit connection with them. . . . Illicit liquor selling is not confined to the lower classes of Europeans. . . . Police evidence goes to show that the business is increasing amongst fairly respectable women, tempted by this means to make money easily. . . . These people are one of the causes of the native's losing that respect for the white race which is one of the strongest factors calculated to restrain him from even entertaining the idea of the possibility of having any sexual relations with a white woman."[65]

Liquor, according to Police statistics, is responsible for eighty per cent of crimes of violence amongst natives. The Chief Commissioner of Police for the Union has said: "The already diminished respect enter-

[62] *Report of the Committee on Assaults on Women,* paras. 98-100.

[63] Much of the illicit liquor sold to natives is of pernicious quality. Thus to Cape brandy are added tobacco juice, cayenne pepper, and blue stone.

[64] *Year Book, cited,* p. 305. Policies have differed in regard to the sale of kafir beer, a native drink made out of maize and kafir corn.

Durban has adopted a system in which the municipality has a monopoly of the manufacture and sale of kafir beer. While it is universally agreed that this régime is better than no restrictions, strong European opinion is in favor of total prohibition of kafir beer, which is the policy Cape Town has adopted for its location at Langa.

A movement for prohibition of liquor to Europeans is led by the South Africa Temperance Alliance, but there are large wine interests in the Cape province, among others, who oppose it. Cf. a pamphlet, *The Drink Problem in South Africa,* 1924, published by the South African Temperance Alliance, which contains the proceedings of the Local Option Congress.

[65] *Report of the Commission on Assaults on Women, cited,* paras. 57 and 55.

tained by natives towards the white race disappears entirely under the influence of liquor. This is particularly noticeable in their demeanor towards white women." [66] While the Commission on Assaults on Women did not find conclusive evidence that drunkenness was a cause of assault, it said: "There can be no question that one of the main causes of crime in general is the excessive use of spirituous liquor. . . . Moderate drinkers are said to be rare amongst black men. The demoralization of natives through drink, especially in the neighborhood of towns, has been described as terrible, and the evidence shows that the deterioration of many of them on that account on return to their homes from the Witwatersrand is very marked." [67]

A half dozen government commissions have pointed out the dangers of these urban conditions, not only to the natives, but to the European community.[68] Urban locations have been the centers of epidemics which have crept into the European areas, and of criminals who, haunting the slums, ply their trade upon European victims. The Probation Officer of the Witwatersrand says: "The criminal class is recruited principally from the towns and not from the country districts. . . . For the last two years I have come across a very large number of juvenile natives who are living in the town without any sort of guardianship and not registered at the pass office and it is from this class of juvenile neglected native that the most dangerous type is recruited. . . . The evidence obtained . . . shows that they live under the grossest possible conditions of immorality. . . . They come in and out for petty thefts. During the winter time the thefts are generally blankets and clothing. In summer these thefts take the form of money, coins, jewellery and articles of food." [69] One of the worst crimes—assaults on women—has increased from twelve cases in 1901 to one hundred and fifteen in 1912.[70] This increase has taken place chiefly in the Transvaal. "The testimony is almost universal that in native territories and reserves with a large black and a scattered white population, crimes of sexual assault by natives on white women are so infrequent that they may be said to be practically unknown . . . The native is under tribal rule and subject to the force of public opinion amongst his own people." One Transvaal magistrate testified: "It is very rarely that any woman is assaulted when the native is residing within the normal and natural environment." In another place, the same commission explains

[66] *Report of the Commission on Assaults on Women, cited,* para. 46.
[67] *Ibid.,* para. 49.
[68] These opinions are quoted in the *Report of the Housing Committee, cited,* pp. 30 ff.
[69] *Report of the Inter-Departmental Committee on the Native Pass Laws, cited,* 1920, p. 13.
[70] *Report of Commission on Assaults on Women,* U. G. 39-1913, p. 11.

this fact by saying: "In the absence of recognized authority equivalent to the chiefs' influence, the native, on arrival at labour centres, loses his social and tribal unity, and, imitation being one of his chief characteristics, he soon conforms to his environment." [71]

The effect of the standards of living of the natives who form thirty-nine per cent of the urban population must invariably seep through to the remainder of the community. A South African doctor a few years ago startled some people in South Africa by saying, "Lice, diphtheria, tuberculosis, skin disease, infectious fevers and venereal disease are transmitted to the European child [by the native nurse] and in some instances possibly to yourselves. Your washing is done by people often rotten with venereal and other diseases; your milk, bread, and meat may be at any time infected, and yet little is done to alter the existing state of affairs."[72] Moreover, as a result of the vices of Europeans, and the indiscretion of the lower class white men and women with whom the natives in the towns come into intimate contact, the respect of the black man not only for the white man, but also for the white woman, has, according to practically universal testimony, declined in recent years.[73] At the same time, discontent has steadily risen at the squalor in which natives must live.[74]

9. *Urban Areas Act*

In the past, the hundred urban locations in South Africa have, with the exception of the locations at Cape Town and Port Elizabeth which were under the Union Government—been governed entirely by the local authorities. But, according to the Native Affairs Department, "The point of view from which the natives have been regarded by the local authorities in the past militated against any improvement of the conditions. They have been conceived as enjoying all the benefits and amenities of town life and giving in return only trouble and annoyance. Unhappily in too fre-

[71] *Ibid.*, para. 103.

[72] Col. F. A. Saunders, *Municipal Control of Locations,* paper at the Association of Municipal Corporations of the Cape Province, 1920, p. 2.

[73] "White criminals who associate with natives for the purpose of crime, others who supply natives with forged passes or passes in the name of fictitious employers, and a low class of whites who mostly live with natives or colored women, also exercise a most demoralizing effect upon the natives. . . . Baneful traffic in indecent pictures and prints which, in spite of existing laws to prevent their dissemination, is going on to an extent to which those who have not made special enquiries into the subject have no conception." *Report of the Commission on Assaults on Women, cited,* paras. 92 and 93.

[74] The Housing Committee reported that if the desire of the native for something better could not be granted, "it will give way to a sullen enviousness of the white man's habitations and ways of life, and a bitterness towards the white race that will lead to trouble." *Report, cited,* p. 36.

quent cases the native population was exploited for the benefit of municipal revenue." [75]

Especially in Johannesburg, some worth while social work has, however, been performed. But it is a striking commentary that practically all such work was started by American missionary societies, backed by American funds.[76] The Chamber of Mines now cooperates with the American Board in furnishing bioscopes (movies) and other amusements to the men on the mines. A native Y. M. C. A., recently started under the direction of a remarkable American negro, shows signs of great promise. Likewise, a joint council of forty Europeans and forty natives at Johannesburg has served as a medium where these racial problems can be frankly discussed.

In 1923, the Union Government, after a long delay caused in part by a desire to work out a comprehensive native policy, enacted the Urban Areas Act which places full responsibility for the government of natives in urban areas upon the municipality. It empowers the local government to set aside areas in the cities where all natives, with certain exceptions, must live. While the actual administration of these areas is to be in the hands of the municipality, the Union Government may impose regulations; and in case the municipality does not live up to these regulations, the Union Government may take over the location. It is planned to build model houses on these locations for the native population, who will be charged rent. All rents and other fees from the location are to go into a native revenue account to be used in paying the expenses of the location. A native advisory board shall be established for every location. Provision is made for the registration of natives living in urban areas in order to keep out undesirables. The municipality has the power, under the act, either to prohibit or establish a monopoly of kafir beer.[77]

By means of this act, the government and the municipalities have already begun to improve the situation of the native in the towns. In 1926, Cape Town assisted the construction of 1,172 houses at a cost of 696,989 pounds.[78]

Nevertheless, this creditable effort, according to Archdeacon Lavis, makes "a piteously feeble answer to existing conditions." In his opinion, housing conditions are substantially the same as in 1921. At the African Health Official's Congress in 1926, a statement was made that thousands

[75] *Report,* 1913-1918, *cited,* p. 16.

[76] The American Board of Commissioners of Foreign Missions has taken the lead. The American Methodist Episcopal church also carries on work among the Portuguese boys at the mines.

[77] *Statutes of the Union of South Africa,* 1923, p. 140.

[78] Archdeacon Lavis, "South Africa's Housing Problem," *Cape Times,* March 29, 1927.

of families throughout the country were sinking lower and lower in the social scale because of inadequate housing conditions. Archdeacon Lavis, writing in 1927, declares that "there are thousands of the poorer classes throughout the Union with no home but the 'one room for every purpose.' . . . Others again live in passages, stables, or pondokkies of wattle and paraffin tin." [79]

The Union Government and the municipalities are awake to their responsibilities. Nevertheless, it is difficult to see how it will be humanly possible to provide housing for an ever-increasing population in the towns. Apparently the fundamental solution would be an economic policy which would divert the native population to the country—a question which will be discussed in detail in a later chapter.

[79] *Ibid.*

CHAPTER 4

THE COLOR BAR

South African industry, as we have seen, is based upon a labor supply consisting of a large number of under-paid natives and a small number of artificially high paid whites. While the presence of native labor is essential to maintain this system, it must only be unskilled. Should natives occupy the positions held by European laborers, they would at once bring the wages of skilled labor down and indirectly elevate the wages of unskilled labor. Under free competition, therefore, the present advantages of white labor in South Africa would be to a large extent lost.

Consequently, the whites have been tempted to take advantage of their political power to enact "color bar" legislation prohibiting competition between the white man and the black. As early as 1890, the laws of the Transvaal provided that all persons in charge of certain machinery on the mines should hold a certificate—a provision designed primarily to insure safety. In 1903, this provision was extended to locomotive driving and other skilled occupations, this time apparently out of fear of the Chinese.[1]

1. *Mines and Works Act,* 1911

Following the Act of Union, parliament passed the Mines and Works Act of 1911 which authorized the Governor-General to draw up regulations in regard to the granting of certificates of competency to such classes of persons employed upon machinery as he might determine. No mention of the color bar was contained in the Act. In view, however, of the policies which had been followed in the Transvaal and in the Free State, the government issued regulations[2] providing that "The operation of or attendance on machinery shall be in charge of a competent shiftsman, and in the Transvaal and Orange Free State Provinces, such shiftsman shall be a white man. . . ." In other words, these regulations simply maintained the state of affairs existing before 1910.

At the time that the Mines Act was debated in parliament in 1911, no mention was made of the color bar. But after the regulations contain-

[1] Cf. Speech of Senator J. P. Malan, *Senate of South Africa Debates,* July 7, 1925, p. 714.

[2] For example, paras. 179 and 285, "Mine and Works Regulations," *Regulations,* 1910-1916, Union of South Africa, Vol. III, pp. 2992, 3052.

ing the color bar were issued, petition after petition came forward. When Mr. Merriman, one of the leading statesmen in Cape Province, moved in 1915 that one such petition be referred to the government with a view to granting the prayer, Mr. Creswell, who is now leader of the Labor party, moved as a substitute that "so long as the policy is persisted in of basing the mining industry upon uncivilized servile labor, largely imported, and so long as no legislation is enacted securing to mine workers standard rates or rates upon which civilized conditions of life can be maintained, the only effect of abolishing the 'color bar' in the Transvaal mining regulations would be to increase the profits of mining companies. . . ." In May, 1920, Mr. Merriman again moved that the government should "take the necessary steps for the early removal" of the regulations imposing the color bar, to which Mr. Creswell replied that the entry of East Coast natives was in effect a color bar militating against the interest of free wage earners of the Union.

The color bar in the mines is prescribed by regulations in thirty-two out of fifty-one different occupations. In nineteen other occupations, a color bar is prescribed merely by custom. About eleven thousand Europeans in the mines are protected by this means from native competition.[3]

Moreover, certain work, usually described as semi-skilled, such as drill-sharpening and tracklaying, has been performed in some mines by white men and in others by natives. But in 1916, the participation of natives in semi-skilled work was opposed by the South African Mine Workers' Union, which insisted that all such work should be reserved to white men.[4] While the Chamber of Mines declined to accept this demand, both parties finally agreed to a Status quo Agreement in 1918 which provided that no billets held by European workmen should be given to colored workmen and vice versa.

But during the War, the Transvaal mines found themselves confronted with rising costs of production and with a fall in the price of gold. In 1919, the government appointed a Low Grades Mines Commission to consider what measures could be taken to improve this condition. The commission recommended that the prohibition on the recruiting of natives north of latitude 22 degrees should be temporarily terminated; that underground work should be re-arranged in order to provide for a longer effective working day for natives;[5] and that the legal color bar should be removed,

[3] *Report of the Low Grade Mines Commission*, U. G. 34-1920, Annexure G and H, and p. 27.

[4] *Report of the Mining Industry Board*, U. G. 39-1922, p. 5.

[5] It appears that while the natives spent ten hours a day in the mines, they performed only five hours work, owing to the lack of sufficient European supervisors. This condition has now apparently been changed. *Round Table*, 1922, p. 432.

and the native's sphere extended in agreement with the trade unions.[6] In later negotiations, the Mines, in a more serious situation than ever because of the rapid decline in gold prices, informed the trade unions that the Status quo Agreement should be limited to skilled occupations only, and that the mines would make greater use of native labor in semi-skilled occupations. In reply, the trade unions proposed that a ratio of natives to Europeans, "progressively favorable to the white race," should be established for every industry except agriculture. Under its plan there would eventually be one white for every 4.5 blacks, although on the mines the ratio was then less than one to 10.5.[7] When the Mines declined to accept this proposal, on the ground that it would ruin the mining industry, the Unions decided to strike, in January, 1922.

2. *The Rand Strike*

It appears that in the strike that followed the South African Industrial Federation had the support of the Communist party in Russia.[8] At any rate, the strikers established a military organization, based on the Free State system of "Commandos," and they voted to overthrow the existing government and establish a republic. Concerted efforts in this direction, which resulted in armed attacks on Europeans and natives, finally led the government to declare martial law in March. To suppress the "rebels," the government called up a military force of more than nineteen thousand men. The total casualties during their operations were seven hundred and fifty-three.[9] The natives, realizing that this was purely a white man's dispute, remained remarkably quiet. Following bitter criticisms by General Hertzog that the Smuts government had wantonly shot down men in cold blood, the government appointed a Martial Law Inquiry Commission, the members of which were recognized, in the eyes of all but a small section, as being impartial. In its report it upheld the action of the government. On the other hand, a Mining Industry Board, appointed to inquire

[6] *Report of the Low Grade Mines Commission, cited.*

[7] In the manufacturing industries in the Cape Province, there was only one European to thirty-nine blacks. In the metal and engineering works in the Cape, the ratio was one to sixty-three, and in the Transvaal one to fifty. Cf. an excellent article in the *Round Table, cited,* No. 47, 1922, pp. 653 ff.

[8] The South African Communist party sent a delegate to the Third International Congress in 1920. The International Socialist League of South Africa became affiliated with the Third International in the same year.

At a meeting in Johannesburg, one of the strike leaders said, "The Government is only prepared to do what the Chamber of Mines told them. In order to fill their pockets, the Chamber of Mines were murdering the workers; if the color bar was abolished the souls as well as the bodies of the workers would be murdered and the authority of the white race in South Africa come to an end." *Report of the Martial Law Inquiry Judicial Commission,* U. G. 35-1922, p. 18.

[9] *Ibid.,* para. 71.

into the industrial causes of the strike, reported against fixing any ratio between European and native labor on the mines. It pointed out that as a result of the abolition of the Status quo Agreement, during the strike, five hundred and twenty-three white men had been replaced by natives in semi-skilled work. In regard to these semi-skilled occupations it declared "it is impossible to close one's eyes to the fact that there is a real danger to the European of this field being more and more extensively encroached upon by the native. The evidence satisfies us that much of this work can be done almost, if not quite as efficiently, by the native, so that, in view of the great disparity in the wage, there will necessarily be a strong inducement on the part of mine managers to make use of black rather than of white labour." [10]

Thus as a result of the strike, the Status quo Agreement in regard to semi-skilled occupations on the mines was terminated, but the color bar regulations in regard to skilled labor remained in force.

3. *The Hildick-Smith Case*

For some time, however, doubt as to the legality of these color bar regulations had been raised. They were finally challenged by a mine manager, and in a judgment of November, 1923, a Transvaal court [11] held that the regulations were *ultra vires*. It declared that Regulation 179—the provision in question—does not discriminate because of skill, but "it absolutely prohibits a large section of the population from being so employed at all, because the color of their skin does not happen to be white. . . . Such restrictions of the right of the citizen to so employ skilled and competent colored persons or of such persons to be so employed, could never have been contemplated by the legislature and were unreasonable and even capricious and arbitrary." It had previously been decided in a number of cases cited by the court that a regulation which discriminates between white and colored is unreasonable and *ultra vires* unless the enabling statute authorizes the discrimination.[12]

Thus the white workers on the mines were confronted with the loss

[10] *Ibid.*, para. 23.

[11] Rex v. Hildick-Smith, *South Africa Law Reports, Transvaal Provincial Division*, 1924, p. 69.

[12] According to Justice Tyndell, "The rule laid down in *Kruse v. Johnson* (1898, 2 G. B. 91) and adopted by the Courts of South Africa that a municipality cannot discriminate between the various classes of its inhabitants, rests in my judgment upon the general principle that the powers of municipalities, just as those entrusted to judicial or administrative officers of the State, must be exercised without discriminating between the one section and another of the population whether the distinction between the sections are those of race, religion, or social status or other characteristics."

not only of the Status quo Agreement but also of the color bar.[13] It is not surprising, therefore, that the Labor party[14] joined forces with the Nationalists in attacking the Smuts labor policy. The Laborites accused Smuts of being in league with the mine owners. As a result of the election of 1924, the Nationalist party came to office virtually dependent upon the Labor party for a majority.[15]

Now, while the maintenance of the color bar on the mines was of more immediate importance to the Labor party than to the Nationalists who represented agricultural interests, they—the Nationalists—nevertheless supported Labor's demand for the color bar, on the broader grounds of protecting white civilization and advancing the "civilized labor policy." They were also frightened by the sensational warnings of the 1921 census.[16] Thus partly as a matter of principle and partly for the purpose of retaining the political support of the Labor party, Prime Minister Hertzog was virtually obliged to introduce legislation restoring the regulations which the courts had pronounced *ultra vires*.[17]

4. *The Color Bar Bill*

In February, 1925, the government introduced the Mines and Works Amendment bill which in its final form authorized the government to issue regulations restricting certificates of competency to Europeans, Cape Colored people or Cape Malays.[18] The bill, after vigorous debate, passed the Assembly by a vote of forty-four to thirty-one, but it was defeated by the Senate—the composition of which had not changed as had that of the Assembly following the 1924 elections—by a vote of seventeen to thirteen. Following this rejection, Prime Minister Hertzog made a speech in the house stating that the color bar question had been unfortunately raised apart from a general native policy.

The government did not, however, follow out the implications of this speech. Instead of embodying the color bar in the general native bills

[13] It does not appear, however, that the mines took advantage of this decision to employ natives in skilled positions. Cf. Senator Roberts, *Report of the Select Committee on the Mines and Works Acts,* 1911 Amendment Bill, S. C. 15, 1925, p. 15; also the address of the President, *Report of the Transvaal Chamber of Mines,* 1924, p. 57.

[14] Seventy-five per cent of the European miners in 1922 were South African born.

[15] Out of the 316,000 votes cast, the Nationalist Party received 155,000 votes and Labor received 42,229. The South African Party received 151,000.

[16] Cf. Vol. I, p. 12.

[17] In February, 1926, the Prime Minister claimed that the strike of 1923 was due to the fact that the government had not enforced the Color Bar. He did not wish this strike to be repeated. *House of Assembly Debates, cited,* February 1, 1926, col. 169.

[18] Cf. Mines and Works Act, 1911, Amendment Act, 1926, *Statutes, 1926,* p. 205.

discussed in the 1927 parliament, it re-introduced the Mines and Works amendment bill in the Assembly in January, 1926, where it was passed by a vote of sixty-four to forty-seven. The Senate, however, rejected it a second time, as a result of which the government, exercising the powers conferred upon it in the constitution, called a joint sitting of the two houses, at which the bill was carried by a vote of 83 to 67.[19]

This measure, which was passed without giving the native organizations who vigorously opposed it an opportunity to express their views, thus gave statutory approval to the color bar. In the final debate, General Smuts, who led the opposition, declared:

"I think that we are building the future of South Africa on quicksands if we go in for this policy, for a policy of repression. . . . I am very much afraid that this Bill is going to make impossible any policy of appeasement and settlement between white and black in this country. I am afraid that this beginning is the most sinister and the most evil beginning that is possible for any policy of peace and co-operation between white and black in this country in the future. . . . Make no mistake about it, we are putting ourselves, by this Bill, dead against the public opinion of the world. . . . The white man, if this Bill becomes law, is largely admitting moral defeat; he will admit that he cannot stand on his own legs; that he cannot compete with the black man, and must resort to principles and laws which violate fair play and justice in order to keep himself going."[20]

In reply, Prime Minister Hertzog reproached General Smuts for his method of handling the native problem when in office. He said, "The European powers we know in certain cases follow a policy which differs from that pursued in South Africa, but they do that because they live far away there in Europe. . . . We live in a country which we say is our country, a country which we intend to keep, which we will maintain as a white country, while they say: 'We hold that country simply as agent for the natives and we are going to make it and keep it as a native country.'" He went on to say that his government was making provision for the development of native territories. Moreover, the proposed bill differed in no respect from the 1911 Act, which General Smuts had supported, except that it did directly what parliament intended to be done under the

[19] *Joint Sitting of Both Houses of Parliament*, 7-12 May, 1926, col. 134. At this session of parliament, an act was passed altering the constitution of the Senate.

[20] *Ibid.*, col. 28. He also said, "I want the members to look forward to the future, to the day when the African continent will be a far more civilized continent than it is today. All our neighbors are following that policy. Go to Rhodesia, go to the Congo, to every state on this continent; not a single one will pass a law like this. . . . We are simply cutting ourselves adrift from everyone else. . . ." In the Belgian Congo, all locomotives are now being driven by natives.

1911 Act. According to the Prime Minister, "there is not a person who has made himself so guilty of immorality in public life and shown such a lack of ethics" as General Smuts. He "has been busy for some years, certainly since this Government has been at the head of affairs, stirring up the feelings of the native against the white man. . . ." [21] Moreover the protest of a number of South African churchmen, teachers, and other professional men against the proposed legislation was, according to the Prime Minister, "an unfounded, lying attack."

It appears that this first definite pronouncement of the South African parliament in favor of the color bar—an anti-climax to the campaign which Mr. Merriman and others had made for its repeal—not only stirred the native population profoundly, but also widened the rift between British and Boers which the visit of the Prince of Wales in 1925 and other factors had begun to close.[22]

This act, moreover, was passed in the face of a long series of pronouncements by expert commissions against the color bar.[23]

The latest pronouncement, made just before the passage of the legislation, was by the Economic and Wage Commission, which said:

"By restricting and reducing the native's opportunities of earning a livelihood, the policy of excluding the native from industrial occupations reduces

[21] *Joint Sitting,* cols. 33, 37, 39.

[22] In the debate on the Color Bar Bill, one member of the Assembly said: "We are about to pass a measure which is unparalleled in the history of any civilized country, and a great many of us think that this measure will not tend to promote the peace or progress of South Africa, but that it will have the very undesirable effect of seriously affecting our reputation as a nation. . . . Since the great war the ideas of the civilized world as to the duties of those entrusted with the care of inferior races has been laid down in unmistakable terms. If we are not legally bound by this we are morally bound. . . . We are not called a mandatory power with regard to the black races of South Africa, but that is really our position. . . . It may be a nice legal position whether the people in the South-West territory will come under the operation of this Bill." *House of Assembly Debates,* June 23, 1925, col. 4878.

[23] The Transvaal Indigency Commission opposed any "government action which is designed to protect the white man against reasonable competition from the colored races. . . ." Government action should be designed rather to assist the white man to increase his efficiency and reduce his cost than to check the progress of the native.

The Mining Industry Commission, 1907-1908, said that any artificial obstruction "in the way of a coloured man improving his position according to his capacity" was difficult to justify.

The Economic Commission, 1914, was of the same opinion.

The Relief and Grants-in-Aid Commission of 1916 was opposed to measures encouraging the white man to rely upon artificial aids rather than upon his own resources. The Native Grievances Inquiry Commission said, "the real grievance of the native on this point is the color-bar, which blocks practically all his opportunities of promotion."

The Low Grade Mines Commission, 1920, and the Mining Industry Board of 1922 expressed the same views. Quotations given in *Report of the Economic and Wage Commission, cited,* p. 124.

his ability to pay, and therefore his value as a market for the manufactures in which European labor is engaged. Thus the policy that sets out to provide additional openings for white employment may so check the growth of wealth as a whole that it defeats its own ends. . . .

"In the special circumstances of South Africa the policy of restricting the opportunities of low-paid non-European workers is particularly dangerous. Already, we have seen, the disparity between the pay of the skilled man and the unskilled is greater than in any other country. This disparity constitutes a premium on the organization of industry on the basis of the minimum employment of skilled and the maximum employment of unskilled labour. If the disparity is increased, and at the same time the increase of wealth is checked, so that the demand for the products of industry at the present level of prices does not expand as population grows, the organizers of industry will be compelled either to force wages down generally, or to reduce the proportion of skilled labour still further and cheapen production by taking advantage of the cheapening of unskilled labour. Now unskilled labour is largely, but not wholly native. An increasing proportion of white workers is being forced to take up unskilled labour—a proportion that will be increased by anything that raises the cost of skilled relatively to unskilled labour; their rates of pay are determined by the rates at which native labour of a given level of efficiency can be got. The native can contrive to live if the rates for unskilled labour are reduced, or do not rise as cost of living is forced up; what will be the position of the white man who is not worth a skilled man's wage and is forced to accept the native rate, increased only in proportion to his slightly greater efficiency? Yet nothing is more certain than that the restriction of the native's opportunities of using his capacities to the best advantage will force down, or at least keep down, the level of pay for native labour and therefore for all unskilled labour; and that in the long run the unskilled white will be paid at the same rate per piece of work done as the unskilled native.

"The same conclusion emerges from our analysis of the problem of unemployment as emerged from our study of wages; that the disparity between white and unskilled native rates is so great as to constitute a danger to the white. In the interest of the white it is necessary to raise the economic level of the native. Minimum wage legislation can do something for this; but the chief agency must be widening of the scope of employment open to him. . . .

"The white man has less to fear from an improvement than from a deterioration in the economic status of the native, while both stand to gain from any increase, and stand to lose from any decrease in the volume of wealth produced as a whole." [24]

5. *Color Bar and Protection*

Manufacturing interests in South Africa have utilized the color bar and the artificially high wages which they are consequently obliged to

[24] *Ibid.*, pp. 171, 172.

pay to whites as an argument for the enactment of high tariffs. To maintain the color bar and because of budding nationalism, the South African Government has pledged itself to support manufacturing enterprises by political or artificial means. But mining, which produces two-thirds of the total exports, and agriculture cannot be protected. The price of gold and diamonds is fixed on a world market, as is the price of maize. Few agricultural products are imported into South Africa. The result of protecting manufactures, who contribute only 16.6 per cent of the total national income, is that "agriculture, mining, the professions and the unprotected industries are paying from 5 to 30 per cent more than is necessary to obtain such products in order to develop manufacturing industry." [25]

Now the object of protection is, of course, to exclude imported manufactures. But insofar as this policy is successful, it lessens the capacity of manufacturing countries to pay for purchases from South Africa. The protective policy of South Africa—as the protective policy of many other countries—therefore reduces the funds available for the purchase of South African agricultural products, while it increases the prices of manufactures produced inside South Africa's tariff wall.[26]

On the other hand, color bar regulations and artificially depressed wages of native laborers in European employment restrict the internal market for manufactures. The future export trade of South Africa cannot possibly consist of manufactures; especially with the decline of mining exports, it must consist, if it is to exist at all, of agricultural products. But as we have seen, the present tariff policy obstructs the natural development of agriculture, as does the land system, which will be discussed later.

6. *The Wage Act*

As a matter of fact, the color bar, apart from the amended Mines and Works Act, exists in other forms. In 1925, parliament passed a Wage Act [27] authorizing the government to establish a Wages Board to investi-

[25] *Economic and Wage Commission,* p. 162.

[26] The Economic and Wage Commission says, "The divergent movement of agricultural prices and manufactured prices throughout the world since 1914 is due to the refusal of the predominantly agricultural countries to admit the manufactures with which the predominantly industrial countries seek to buy their agricultural products, coupled with the inability of the agricultural countries to reduce their output. The effect on the industrialized countries is extensive unemployment, a high level of prices for the manufactures that are produced, and a low level of food prices; the effect on the agricultural countries is a slight growth of manufactures, a low level of agricultural prices, agricultural depression, and a check to the reduction of the cost of living. South Africa, with a limited number of staple products, which she has to find markets for abroad at any price, and a high degree of dependence on imported manufactures in spite of protection, has suffered more than other countries from the policy that has led to this divergent movement of prices." *Ibid.,* p. 166.

[27] *Statutes of the Union of South Africa,* 1925, p. 238.

gate labor conditions, apparently with a view, wherever possible, to fix wages so that employees may live "in accordance with civilized habits of life." The Minister of Labor may fix minimum wages, in accordance with the recommendation of a majority of the board. The act does not, however, apply to farming or domestic service. The purpose of this act was avowedly to prevent natives from competing with Europeans. In the debate, the Minister of Labor said:[28]

"If our civilization is going to subsist we look upon it as necessary that our industries should be guided so that they afford any man desiring to live according to the European standards greater opportunities of doing so, and we must set our face against the encouragement of employment merely because it is cheap and the wage unit is low. . . ." As a guide for the Wage Board, the government now appointed an Economic and Wage Commission[29] to study the general industrial situation. This commission pointed out that if the Wage Act were used to exclude natives from employment, it would probably restrict the scale of industry and thus curtail the employment of the white man. It would appear that such a use of the Wage Act would have the same economic consequences as the color bar. The Minister of Labor and the board may, however, under the law, adopt a minimum native wage—which the commission by implication advocated.

7. *Social Discrimination*

Other forms of the color bar are more direct. While in Cape Province, some labor unions take in colored members (not natives) and while in Natal some Indians and natives perform skilled work, it appears that a conventional color bar exists in most fields of industrial employment in both provinces. Natives in all four provinces are excluded from the military training which Europeans receive. They cannot acquire Crown land nor make use of the Land Bank, as can Europeans.[30]

Their disabilities in regard to the franchise, land, and passes are described elsewhere. Except in Cape Town, Jim Crow laws, enforced by convention, if not by regulations, also abound. On the trains, natives are obliged to ride in native compartments. While most natives wish to ride in third class carriages, the trains are now supposed to carry first and second class sections for natives wishing this type of accommodation. A leading

[28] *House of Assembly Debates,* March 30, 1925; col. 1590.

[29] In addition to South African members, it included Mr. Stephen Mills, an Australian civil servant, and Professor Henry Clay of Manchester University.

[30] S. T. Plaatje, "Some of the Legal Disabilities Suffered by the Native Population of the Union of South Africa and Imperial Responsibility." Pamphlet. See also a *Grievances Memorial* submitted to the Prime Minister and Government by the Bantu Union, 1920.

native says: "Socially speaking, the black man in all public places is either 'jim-crowed' or altogether ostracized. In stores he has to wait until all whites are served; in public offices, he is bullied by officials; in markets his stock and produce are by tacit agreement earmarked for low prices; his sugar cane is not accepted at the Zululand mills; evening curfew bells restrict his freedom of movement among his friends and he is cut and snarled at throughout his life.

"In railways he is at the very start of his journey buffeted by booking clerks; in the goods sheds he is unnecessarily anathematised in language that cannot bear repeating; his waiting rooms are made to accommodate the rawest blanketed heathen; and the more decent native has either to use them and annex vermin or to do without shelter in biting wintry weather. . . ."

When in Pretoria this native wished to visit friends living two or three miles across town, a distance covered by a 6d. tram ride, he was not allowed to use the trams because he was a black man.[31] Charges as to the maladministration of justice in mixed cases are frequently made. Natives assert that they cannot get fair play from a white jury in a case against a white man. They assert that when Europeans commit the crime of murder or rape against a native they get off lightly but that when a native commits such offenses, he is punished with the extreme penalty.[32]

8. *The Pass System*

In order to identify natives living outside of the native territories and to control their movements so as to prevent crime and desertion from employment, the different provinces of South Africa have followed a form of pass system, which applies only to natives and not to whites.[33] In the Cape Province, it appears that there is less restriction on the movement of natives than elsewhere. But in Natal, according to Lord Selborne, under certain circumstances a native may be required to carry eight different passes! In the Transvaal, natives travelling within the province must carry passes; while in the labor districts, a native must have an identification pass, containing his finger prints and history, and he must also carry a copy of his labor contract. Special passes are necessary if the native wishes to remain in town after 9 P.M. In the Orange Free State, a native

[31] Professor D. D. T. Jabavu, *The Black Problem,* Lovedale, 1920, p. 9.
[32] *Ibid.,* p. 8.
[33] In the Cape Province all foreign natives entering the Colony should have passes—a provision which is not enforced. Passes are also required for the Transkei. Movement within the Colony is otherwise free, subject to certain provisions of the Cattle Removal Act of 1870. *Report of the Inter-Departmental Committee on the Native Pass Laws, 1920.* U. G. 41, 1922, p. 2. The different provincial pass laws are summarized in Annexture B of this Report.

moving about is liable to arrest as a vagrant unless in possession of a pass.

The natives have repeatedly objected to the pass régime for three reasons. In the first place, it places an irksome restriction on their movements. In some provinces a native wishing to visit friends a few miles away is obliged to go to the local magistrate for a special pass. Otherwise he will be liable to arrest. In the second place, the administration of any such system is liable to great abuse. For a while the system was enforced by native policemen who, in some instances, bullied native men and assaulted women under the guise of asking them for their passes.[34] In other instances, natives seeking passes would suffer petty indignities from European officials. Occasionally, the pass law has been enforced by officers not knowing the native languages; while natives, ignorant of English, have not understood the provisions of the law. Although a number of classes of natives, such as teachers, are theoretically entitled to receive certificates of exemption, they complain that the system is applied to them as well as to non-exempted natives. Moreover, the pass laws, together with the penal sanction of labor contracts, make strikes illegal.

Finally, most provinces require the payment of a fee upon the issuance of a pass, which entails upon the native an irksome expense. In the Transvaal, this burden is increased by the necessity of paying a monthly pass fee of two shillings.[35]

Native protests against the pass system have been as frequent as they have been bitter. At the time of Union, representations to the Imperial Government against the system were made without success.[36] In 1910 and 1912, natives from the Orange Free State, which has been the center of the opposition to the system, submitted petitions to the government; and in August, 1913, a further petition was presented following the imprisonment of a number of native women who had organized passive resistance against the law. The commission appointed to inquire into the question of assaults on women recommended that the pass system should be simplified. No action was taken, however, on account of the World War. Meanwhile, the African Political Organization, an association of colored persons, and the African National Congress demanded the abolition of the

[34] Sol. T. Plaatje, *Native Life in South Africa,* London, 1914, p. 93. Cf. also *Commission on Assaults on Women,* U. G. 39-1913.

[35] For natives in industrial employment, this fee is usually paid by the employer.

[36] The Act of Union did not touch the pass question, except in the schedule laying down conditions under which neighboring protectorates might be incorporated, which said, "There shall be free intercourse for the inhabitants of the Territories with the rest of South Africa subject to the laws including the pass laws of the Union."

system, while native discontent, resulting in some places in passive resistance, increased. Matters came to a head in an attempted strike of the native municipal employees in Johannesburg in 1918. Encouraged by the success of a strike of European municipal employees in securing increased wages, the natives attempted to secure similar results by the same methods; but their efforts failed largely on account of the police and the pass laws which prevented them from leaving work without notice.

At the recommendation of a magistrate appointed to inquire into this strike the government for the time being exempted all women from passes; while in 1920 it appointed a commission to study the whole question of pass laws.

This commission, as had other bodies before,[37] declined to agree to the abolition of the principle of the pass system. It believed, however, that the system should no longer be used to restrict the movements of natives, but merely to identify them. Consequently, it proposed the passage of a Native Registration and Protection Act, under which each male native should become registered in his district at the age of eighteen. At that time, he should be given a certificate accompanied either by a photograph or thumbprint, which he should carry with him in a life-long parchment whenever he goes beyond the ward in which he is ordinarily resident. The commission felt strongly that a native should not be asked to show his certificate except to authorized European (not native) officers. It should be illegal for employers to hire a native not in the possession of such a certificate. Women as well as six classes of men, including educated natives,[38] chiefs, and voters, should be exempted. These certificates should be issued gratuitously by the government, except in the case of duplicates.

Such a proposal would remove the grievances arising out of maladministration and expense and many of the grievances arising out of freedom of movement. That is, a native carrying his registration certificate could move freely from one end of the Union to the other. A bill to this effect was introduced in the 1926 parliament, but it was crowded out at the end of the session by other business. It was held up also, probably because of the belief that the plan was intended to apply to the whole Union, and thus would impose restrictions upon natives in the Cape Province to which they had not been subject in the past.

[37] In 1902, Lord Milner said that if the pass system were abolished, the place would be a pandemonium. "Alike for the protection of the natives and for the protection of the whites it is absolutely essential to have some reasonable arrangement by which the incoming native can be identified and his movements traced." Quoted in U. G. 41-1922, p. 3.

[38] Those having passed the fifth standard.

CHAPTER 5

THE NATIVE IN THE COUNTRY

NOTWITHSTANDING the importance of the native question in the cities, the problem of the native living in the country is, from the standpoint of numbers, even more fundamental. Eighty-seven and a half per cent of the total non-European population—or 4,520,000 people—regard the country as their home. Prior to the coming of the Europeans, the different native tribes lived where they liked, subject to the fortunes of inter-tribal wars. They were the only "owners" of the land. When the Europeans advanced eastward, they met the Bantu descending from the north, and the two came into conflict in the eastern part of what is now the Cape Province, on the banks of the Great Fish River. Because of the superiority of the white man's weapons, the Bantu were driven into Natal and the area between the Kei and the Umtamvuna rivers—a district now called the Transkei. In the Cape, settlers and natives fought pitched battles in eight Kafir Wars, as a result of which natives were obliged, in most cases, to give up their lands as spoils of war. The Bantu were in some cases the aggressors against the whites. In other cases, particularly in Natal, internal native war had left the country depopulated. In occupying these territories, the South African settler responded to the same kind of impulses that controlled the pioneers on the American frontier.[1]

It appears that in disposing of the land of the four colonies, the government in no case investigated the question of native rights in the land, as is now done in the French and Belgian territories, and in Tanganyika[2] —a task at that time impossible in view of the disorganized state of the country. All land was simply declared public land, subject to disposal by the government, which alienated it to European settlers after establishing in several cases, notable in Natal, native reserves.[3]

[1] Cf. Vol. I, p. 4.

[2] Cf. Index, "native land."

[3] "In the early period of this outward move, (1745) the burghers obtained an informal sanction to occupy new lands and pastures under a somewhat indefinite understanding that they were held during the pleasure of the [Dutch East India] Company. But when, some years later, more remote districts were reached, all considerations of permission to occupy, boundaries, and rent were entirely ignored." Sir G. E. Cory, *The Rise of South Africa,* London, 1910, Vol. I, p. 13. See Chapter IX, on the New System of Land Tenure introduced after 1813.

The Land Settlement Act defined Crown Land to include "all unalienated land within the Union, however acquired, which is the property of His Majesty

1. *Native Locations and Trusts*

Despite its Crown land policy, the Cape Government promised in a number of early treaties to set aside certain reserves for natives, the leading one of which today is the Transkei, discussed later.[4] But when native territories such as Griqualand and Bechuanaland were annexed by the Cape Colony, part of the land was alienated to Europeans. At present, one also finds a large number of native "locations" or small reserves scattered throughout the province.[5]

Natal likewise adopted this location policy at the instance of Theophilus Shepstone, the Secretary of Native Affairs. While in many cases, reserves were established where population was thickest, in both territories locations were scattered about the country elsewhere with a view rather to European than to native interests. As Earl Grey put it, "Permanent locations should be established within the Colony; and in selecting the sites of these locations, sufficient intervals should be left between each of them for the spread of white settlements; each European immigrant would thus have it in his power to draw supplies of labor from the location in his more immediate proximity."[6] Natal set aside one compact area as a native territory—the greater part of Zululand—with title vested in a Zululand Trust. Elsewhere in Natal, native areas are of two types: Crown locations, similar to those in the Cape; and mission reserves. In 1864, Letters Patent constituted the Natal Native Trust—composed of the governor and executive council of Natal, in whom locations were vested as trustees. They are empowered to hold or to sell or lease these lands, as they deem fit for purposes connected with the advantage or well-being of the natives. Thus they have mortgaged certain location lands for the purpose of raising money to construct irrigation works, for the benefit

in his government of the Union; and 'unalienated' shall mean, not leased or reserved for special purposes, as well as unalienated by grant, transfer or other form of absolute disposal." *Statutes of the Union of South Africa,* 1912, p. 152.

[4] Cf. Vol. I, p. 88.

[5] Cf. the Native Locations and Commonage Act, 1879, *Cape of Good Hope Statutes,* Vol. I, p. 1662.

[6] Note of November 30, 1849. Cf. Edgar M. Brookes, *The History of Native Policy in South Africa from 1830 to the Present Day,* Cape Town, 1924, p. 327. Apparently the only man who opposed this sandwich policy of locations was a missionary, Rev. John Philip, who, realizing that the greatest problem in connection with the natives in South Africa was the land, suggested separate white and native areas, in which homogeneous communities could develop along their own lines—ideas which now are advocated by the Hertzog government. If they had been adopted at that time, the history and the future of South Africa would probably be quite different. Prof. W. M. MacMillan of the University of the Witwatersrand has made a study of Rev. Philip's life, entitled, *The Cape Colour Question,* London, 1927.

of natives.[7] Mission reserves originally were granted in the vicinity of missions for the purpose of establishing mission villages or communities of natives wishing to get away from the "debasing" features of tribal life.[8] Within these reserves, different missionary societies have established churches and schools. With some exceptions, the chiefs and a majority of the residents profess to be Christians. On mission reserves, polygamy is prohibited, and all children under sixteen must attend school. Each reserve also has a resident missionary. It appears that life on these mission reserves approaches standards of European morality and custom to a greater extent than on the government locations, where the social life of the natives has altered little.[9]

Before 1903, the title to mission reserves was vested in trustees, most of whom were missionaries. But in that year, an act was passed[10] constituting the Natal Native Trust as trustee also for these mission reserves. This act gave to the various missions reserves of about five hundred acres. The Natal Native Trust is authorized to charge the native residents an annual rent fixed at one pound, half of which goes to the Native Trust for the benefit of the reserves, and half to the missionary body for education. In return for the rent, the native is exempt from dipping and grazing charges. Recently, the natives have made rather bitter complaints about the payment of this rent, which is considerably higher than that charged under the Glen Grey system.[11] From the standpoint of mission policy, the wisdom of promoting missionary-educational enterprise by compulsory levies is of debatable value.

Natal is the only one of the four colonies which vests title to native land in a Trust rather than in the governor as the representative of the Crown. This system has the advantage of earmarking revenue derived from native lands for native purposes. But in 1907, the Natal Native Commission criticized the work of the Trust in this respect, stating that beyond some tree-planting, fencing, and the construction of a few water-courses and roads, no attempt had been made to develop the lands vested in it.[12]

[7] *Report of the South African Native Affairs Commission,* 1903-1905, Cd. 2399, p. 14.

[8] This custom of establishing "mission villages," where native Christians are supposed to live rather than to return to their native villages, has been tried by Catholic congregations in East Africa and in the Congo, and also by some Protestant societies. But sentiment among these bodies is now apparently against these villages, on the ground that they develop a "hot house" rather than a militant Christianity. Cf. Vol. II, p. 494.

[9] *Report of the Proceedings of the Fifth General Missionary Conference of South Africa,* 1921, p. 91.

[10] Act 49 of 1903. *Statutes of Natal, Supplement,* p. 2.

[11] Cf. Vol. I, p. 91.

[12] *Report of the Natal Native Affairs Commission,* 1906-1907. Cd. 3889 (1908), para. 94.

Upon the establishment of the Union, legislation was enacted authorizing the government to delegate to the Minister of Native Affairs control over the administration of any Native Trust. The Minister of Native Affairs, at the same time, has charge of the administration of Crown locations. "So far as a layman may express an opinion, the Natives living in Trust Locations, are in law, no better and no worse off as regards security of tenure than Natives living in Crown Locations." [13] This statement is probably true, provided the Trust is composed of government officials, as in Natal. But if it includes natives and missionaries interested in retaining lands for natives rather than in alienating lands for white settlement, it may offer more real security than vesting lands in the Crown direct.

In the Pretoria Convention of 1881,[14] the British Government insisted that the Transvaal establish a Native Location Commission which should reserve to the natives "such locations as they may be fairly and equitably entitled to, due regard being had to the actual occupation of such tribes." The government found it more practicable to appoint local commissions, which did not, however, complete their labors before the outbreak of the Boer War. At the present time, there are about 2120 square miles set aside as government locations. Under the Transvaal Constitution of 1906, these reserves could not be alienated except by act of Parliament.

In the Free State, no provision for native reserves was made, except for two locations at Witzies Hoek and Thaba 'Nchu, native territories along the frontier annexed in 1884.[15] In all of these locations, with the exception of those in the Cape under the Glen Grey system, communal tenure in accordance with native law prevails. Rent is charged native residents in Natal, and in the Glen Grey areas of the Cape, but not in the Transvaal.[16] The extent of native reserves or locations in the Union is as follows:

	Native Reserves	
Province	*Extent in Morgen*	*Percentage of Total Area*
Cape	7,115,561	8.47
Natal	2,897,120	22.83
Transvaal	1,077,513	3.22
Orange Free State	74,290	.48
Union	11,164,484	7.13[17]

[13] Brookes, *cited,* p. 358. [14] Section 22.
[15] See Minute by Sir W. H. Beaumont, *Native Lands Commission,* U. G. 25-1916.
[16] Cd. 2399, p. 16.
[17] *Report of the Natives Land Commission,* Vol. I, U. G. 19-1916, p. 3.

2. *Population and Native Land*

Except in the Orange Free State, natives, before 1913, could purchase and lease land throughout the Union outside of the reserves upon the same basis as Europeans. They apparently could not, however, acquire Crown land. In the early days, in a number of cases, different governments granted titles to natives who had been friendly to the government. By these various means, natives have acquired 1,002,039 morgen of land. To determine the native land in the Union, this area, together with 538,343 morgen of mission land, and 942,280 morgen of Crown land, should be added to the area in reserves, which makes a total of 13,647,146 morgen or 8.84 per cent of the total land of the Union. In comparison with this 13,700,000 morgen of land held by natives, nearly 110,000,000 morgen have been alienated to Europeans. The remainder is composed of forest reserves or unalienated Crown land, etc.

The total native rural population of the Union of South Africa was estimated by the Beaumont Commission upon the basis of the 1911 census at 3,880,514, of whom 2,269,019 live on native land. The remaining 1,611,495 live on European farms. The following table illustrates the situation.

Distribution of Native Rural Population[18]

Province	Natives Inhabiting Reserves, Etc.				Natives Inhabiting European Farms		Total Rural Population
	Reserves	Mission Lands	Native Owned Lands	Crown Lands	Unoccupied by Europeans	Occupied by Europeans	
Cape	1,149,438	24,335	39,272	12,524	7,592	240,357	1,473,518
Natal	479,822	44,535	39,250	37,070	85,505	357,946	1,044,128
Transvaal	283,144	24,024	40,430	71,511	232,082	408,638	1,059,829
Orange Free State	17,200	1,768	4,696	.....	.....	279,375	303,039
Union	1,929,604	94,662	123,648	121,105	325,179	1,286,316	3,880,514

This table shows that while all but 300,000 country natives in the Cape live in reserves, etc., the majority in the Transvaal and in the Free State, and nearly a half in Natal, live upon European farms. The average holding in the reserves is about 5.7 morgen; on the European farms, it is 12.7 morgen. The population density per square mile on the reserves is about 52.26 compared with a density of 14.67 for the Union as a whole.

[18] *Report of the Natives Land Commission,* Vol. I, U. G. 19-1916, p. 5.

Thus half of the native rural population live on locations of their own; while the other half live for the most part on land owned by Europeans.

3. *Condition of Farm Natives*

According to the report of the Eastern Transvaal Land Committee, every native family of five requires for subsistence eighteen and one-quarter morgen of land (four morgen arable and fourteen and a quarter suitable for pasturage). The land per family of five in the native reserves works out, according to the 1911 census figures, at twenty-seven and a half morgen. But in view of the increases of native population since 1911, and of the fact that large areas of land in Zululand, the Transvaal and Bechuanaland are totally uninhabitable, it seems certain that at present the family acreage is at the subsistence minimum and that, even leaving out of consideration the 1,600,000 natives living on European farms, the saturation point in the reserves has been reached.[19] This conclusion is borne out by further evidence.

The condition of the largest group on native land, living in the Transkei, will be discussed in the next chapter. But on the near side of the Kei river—the "Ciskei"—is another native area where, instead of reserving a compact territory for native occupation, the government early adopted a policy of sandwiching small native locations in between European farms. Originally, it was intended that each native family should be given four morgen (eight acres) of land—the amount of land usually assigned by a chief to his sons. But this was before the days of heavy taxes, when the soil was virgin and the commonage and forest rights much greater than today. As a result, few if any Ciskei families can support themselves on eight acres; in fact, many of them have land holdings of less than this figure. According to one investigation, "The peasant farmers are practically all men of middle age or old. They have in many cases spent their youth in unskilled labor at the mines or in towns. When about forty or fifty, they settle down to farm their little crofts. It is natural that they should look upon this step as 'retiring.' Moreover, their earlier experience has not taught them to be progressive farmers. It is not surprising that they should in most cases look upon their croft as a place to settle down upon rather than a place to develop." [20] While many native holdings are as large as ten acres, in Kingwilliamstown and

[19] Cf. a valuable paper on "The Land Question in South Africa," by J. D. Rheinhalt Jones, read at the European-Bantu Conference, February, 1927.

[20] Report of Commission of Inquiry (Ciskeian Section) into the Social and Economic Conditions of the Native Peoples, *Report of the Proceedings of the Fifth General Missionary Conference,* South Africa, p. 48.

Victoria East they are much less—eight, six, or even four acres. According to the same investigation, peasant farmers on the rich wheat-growing land of Herschel can make a living:

"in most places, however, under present conditions, in these very small crofts, income from land has to be supplemented by income from labor for some employer. When that fails there is apt to be serious distress. . . . We have an expert opinion that on forty acres of reasonably good ground, a man with steady work and good methods of farming can hope to maintain a family with some degree of civilized comfort. . . . [But] the ordinary peasant farmer in most parts of our area is the ten-acre man, and his position is that unless he has a grown-up *son or daughter* able to go out to work and supplement his income by *their* wages [*sic*] he must leave his croft and go out himself to work. The ten acres will not support him.

"It is a situation with grave disadvantages. The young men and women are thown into the towns and other labor centres for years, far from their homes, or else the father himself goes, and the young people grow up lacking his presence and authority. From the economic side the man is apt to fall between two stools. He is neither a skilled farmer nor a skilled laborer. He is unskilled both ways. . . ." [21]

Professor W. M. MacMillan, who has made the most detailed study of the question, also says,

"It is difficult to compare ancient western Europe with modern South Africa, but on the whole it leaves no doubt that kafir pastoralism—and we have done little to teach them anything better—cannot possibly be made to support, even at their low standard of living, a population of from fifty to eighty or a hundred to the square mile.[22]

"Already the native, even in the reserves, is largely dependent for subsistence on his wage earning, and it should be borne in mind that the communal life of the kafir tends more than European individualism to reduce the whole of the population to a dead level of poverty. Every additional head of population increases the strain on the common pasture on which all depend. At the same time their support of one another saves us from having to organize relief of Kafir destitution. . . . Ocular evidence, both of crowding and of over-stocking, cannot fail to strike anyone who has seen the triangle of land between Middle Drift, Debe Nek, and Keiskama Hoek, or the contrast between a prosperous district like Mount Currie (Kokstad) and its neighbor

[21] *Ibid.*, p. 50.
In 1921, a total of 306,107 (including 30,807 women) natives were reported absent from their homes in Cape Province, Natal, the Transvaal, and the Orange Free State, at Labor Centers. *Report of the Economic and Wage Commission, cited*, p. 327.

[22] He quotes Schmoller's estimate that in the days of the Celtic and Germanic tribes, western Europe supported a population of from twelve to thirty per square mile.

Mount Ayliff. . . . In one surveyed border location, equal in size to perhaps three European farms, there are not fewer than four hundred families of squatters on the common pasture land. These people must live somewhere, and there is nowhere else for distraught officials to put them. . . . It is well known from bulletins of the Department of Public Health that typhus has for years been endemic in a great many parts of the Union. Typhus is due to dirt, and the native is not naturally filthy in his habits. But washing becomes a luxury when every drop of water for domestic use has to be fetched four miles or more, and that is the fact about parts even of the Transkei. It is not so well known that in the Cis Kei at least, in the opinion of a cautious and experienced doctor, scurvy is definitely on the increase, if not actually endemic. And scurvy is a disease of malnutrition which is known to take four months to develop. . . ." [23]

In the Glen Grey district, there are four thousand landless natives now on the waiting list for land [24] which means that, including their families, a total of forty-three thousand people in a purely native district, are without an independent basis of subsistence. Because of communal native habits, this landless class depends upon its brother land owners, and thus depresses living standards all around. "Of any considerable number of men of any age who have never at any time been out of work, there is no evidence whatever." [25]

As a result largely of over-crowding, tuberculosis is coming to be the most dreaded disease in the country. It increases in proportion to the "length of time and extent to which the resort to Native labor centres have been taking place, and to the degree of advancement of the tribe from barbarism to civilization." [26]

[23] W. M. MacMillan, *The Land, the Native, and Unemployment,* Johannesburg, 1924, p. 3.

[24] Cf. Vol. I, p. 92.

[25] MacMillan, "Crowded Native Areas," *Cape Times,* April 13, 1926. See also a number of other articles in the same month on the native question.

[26] *Report of the Tuberculosis Commission,* U. G. 34-1914, p. 107.

Apart from European district surgeons, the number of whom is hopelessly inadequate, the government is doing little in the native areas to promote the health of the natives. According to a Report of the Committee of Inquiry *re* Public Hospitals and Kindred Institutions, "It is perfectly clear that the accommodation at most public hospitals is utterly inadequate, especially in the case of native bed accommodation. . . . The provision for natives generally leaves much to be desired and in some cases is nothing short of a scandal." U. G. 30-1925, paras. 251, 260. Excellent work is being done, however, by Dr. MacVicars at the mission hospital at Lovedale. Native patients in the hospital are charged a shilling a day. Under the auspices of this hospital, a South African Health Society has been formed, which prints thousands of health pamphlets in different native languages, and which publishes a Health Society Magazine, in English and Kafir. It also trains native nurses.

In Mpahlele's Location in the Transvaal, a Native Hospital was opened as a result of native efforts. The Chief gave the building, the necessary alterations of which were effected by tribal funds. The Department of Public Health ar-

It appears that similar conditions exist in most of the native areas of the Natal and the Transvaal. As we have seen, there are, with two exceptions, no native areas in the Free State.

After hearing the reports quoted above, the Missionary Conference of South Africa passed a resolution in 1921, as follows:

"In view of the grave statements contained in these reports that the available supply of land for the rising generation of Natives is already practically exhausted, let alone the requirements for future generations, and that the large proportion of the Native population who are peasant farmers of small crofts is living near and often below the poverty line, this Conference desires to emphasize the importance of all efforts to secure better methods of cultivation of the land and distribution of products, and especially the spread of Native Farmers' Associations, and the training and employment of agricultural demonstrators in Native Areas."

It also believed that native village industries should be established. Apart from the schools of the Transkei and the Council Farm of the Glen Grey District, the Union Government has done little so far to improve native agriculture. The extent to which this is possible, under existing land circumstances, will be discussed in the next chapter.[27]

The Conference also viewed

"with the deepest concern the reports on the health conditions of the Natives resulting from poverty, lowered vitality, poor housing conditions and poor clothing. The number of District Surgeons is insufficient to cope with the health conditions, either in the way of destroying the causes of disease or of dealing with sickness. . . . The wages earned by many sections of the Native community, especially in view of the cost of living, are insufficient for the bringing up of families in decency and comfort, and while this has been borne with patient endurance, it is the cause of much suffering and unrest. . . ."[28]

4. *Native Squatters*

From the standpoint of land, the position of the native living outside the reserves is more difficult to determine. He usually is either a wage earner or a squatter on a European farm. Such natives as a rule do not go up to the mines because on European farms recruiting of labor for work elsewhere is virtually prohibited.[29] Since it is to the interest of the employer to keep his labor contented, the native wage-earner on the Boer farm should be better fed and looked after than the native in the location who has no guardian. Nevertheless, complaints have been

ranges for visits of the district surgeon. U. G. 34-1922, *cited*, p. 19. The government is now considering the establishment of a school for native doctors.

[27] Cf. Vol. I, p. 98. [28] *Proceedings, cited*, p. 25. [29] Cf. Vol. I, p. 22.

made. The "I. C. U." has protested against the condition under which native farm labor works, especially against the payment of wine rations instead of wages. A native recently stated that as compared with former times, natives did not like to work for farmers, although this work would ordinarily be preferable to work in the mines. This was because: "(a) When ill-treated, they found that they were absolutely in the power of the 'baas' ['boss'] and had no umpire to appeal to who could guarantee them humane treatment. (b) There was no security for them to be conducted safely home, such as they enjoyed under the Rand recruiting agencies; hence some had been known to disappear completely either by death or by becoming lost in the broad country, when attempting to get back home, in consequence of illness or physical incapacitation. (c) The rule of the 'baas' is so arbitrary and merciless that he imprisons them even for minor and trivial misunderstandings. (d) They were liable to sudden evictions at the caprice of the Dutch farmer, and under the Native Lands' Act of 1913. (e) There were many cruel and hard taskmasters who indulged in whipping and other forms of physical chastisement." [30] No legislation exists in regard to labor conditions outside proclaimed districts [31] and abuses on farms are less easily detected than in industrial centers having a concentrated labor supply. It appears also that farm wages are less than wages in the cities.

Probably the majority of the natives living on farms have not, however, been regular wage-earners but rather "squatters," who secure land from European owners in return for rent paid usually either in services, cash or kind. In Natal, natives living on private farms have paid annual rents varying from one to five pounds, and it appears that the same rents are paid in the other areas.

Probably the majority of the squatters have farmed the land on a crop-share basis paying half the crop to the owner—a practice which some European farmers have found more profitable than working it themselves.[32] In many cases, it appears that farmers have charged excessive rents for the use of land. Nevertheless, "so strongly are they [the natives] attached

[30] D. D. T. Jabavu, *The Black Problem,* p. 127.

[31] Cf. Vol. I, p. 39.

[32] As one witness said, ". . . one farmer got as his share from the labour and so forth of the natives, nearly 400 bags of mealies, which, taken at the market value of about 7s.6d., would be £150. Then he had the right to the mealie stalks for the winter for his own stock, and it would be almost impossible to place a value on this. The farm was two separate pieces of about 560 morgen, valued at £5, that is, £2,800. For allowing three families to reside on his farm and to graze their stock for the year he got £150 in value. The boys got one-third share and he got two-thirds. In this case a tremendous lot of ploughing had been done, and it was not a very favorable season either. As a general rule the native gets a half share and the farmer a half share. . . ." Testimony of Mr. Harley, *Report of the Natives Land Commission,* Vol. II, U. G. 22-1916, p. 2.

to such lands and the graves of their ancestors that they would rather submit to any terms than be forced to leave. They know that the rents they have paid cover many times the market value of the land itself, and they would welcome any arrangement by which they could purchase the land for themselves, or become the tenants of the Government with a prospective right of ownership." [33] The system has been unsatisfactory from the standpoint of the native, since he has had no security of tenure. Moreover, if he paid his rent in the form of service, he was obliged to work several months out of every year for the landlord.[34] In 1905, the Native Affairs Commission declared that "such occupation is pernicious to both races, encouraging the far-reaching evil of absentee landlordism on the one side and on the other barring the progress of the Native by insecurity of tenure. Other objections are that the system restricts the supply of labour; that it fills up with Natives much land which would otherwise be better utilized and developed; and that it leads to the absence of due control over them." [35] Moreover, such natives live virtually without the protection of officials which exists in native areas. In order to restrict these evils, most of the South African colonies attempted to limit the number of native families, usually three to five on any one farm, regardless of its labor requirements.[36] It does not appear that this legislation, in the Transvaal at least, was enforced. In the Cape, however, the number of squatters was fixed by a Location Board according to the size of the farm; beyond this limit, no native could live on European property unless the owner secured a license as a private location. By this means it was hoped to secure a more even distribution of labor. The Native Affairs Commission in 1905 recommended that no natives other than bona fide servants of the owner should be allowed to live on private lands, except under government control either through tenancy agreements or on licensed locations. It does not appear that any Union legislation to this effect was adopted until 1913.

[33] Minute by Sir W. H. Beaumont, *cited*, p. 10.

[34] The Natal Native Affairs Commission reported: "Where a tenant is required to render service, either in lieu of rent or in reduction thereof, the rate of wages is comparatively low, ranging from 3s to 15s a month, and generally for a period equal to six months out of the year. In a large proportion of cases, this service is not continuous, but intermittent, at the pleasure of the landlord, according to the exigencies of his operations. This description of agreement has the effect of locking up much labor, as the tenant can only leave the farm for short, and probably uncertain periods, and at the will of the landlord." Cd. 3889, *cited*, p. 29.

[35] Cd. 2399, *cited*, p. 22.

[36] The "Plakkerswet," or Squatter's Law No. 21 of 1895. *Laws of the Transvaal*, 1839-1910, Vol. I, p. 329. Native Locations Amendment Ordinance, 1899. The number of natives on a private location was limited to forty. *Cape Laws*, Vol. III, p. 4143.

Previous to 1913, natives in the Cape and Natal could acquire and hold land by freehold or lease without regard to race.[37] In the Transvaal, natives could acquire land provided it was held in trust by the government. Only in the Orange Free State were natives debarred from holding land. In 1912, European farmers became alarmed at the increasing acquisitions of farms by natives, especially in the Transvaal. Sometimes a native would purchase a farm with savings from his labor on the mines. In other cases, purchases would be made collectively by a tribe. By this means, natives were beginning to penetrate European areas. They would purchase a tiny holding from a European landlord which in some cases adjoined another European farmer. From the latter's standpoint, the native farmer and his family were socially undesirable neighbors. In much the same way, Polish farmers in New Jersey and Japanese farmers in California have irritated farmers with a different standard of living, with the result that many have sold out.

5. *Native Land Act, 1913*

In order to stop these indiscriminate purchases and also to control squatting, the Union Government enacted the Native Land Act of 1913.[38] This Act temporarily forbade the natives to purchase land outside of existing native locations, defined in the schedule to the Act, which amounted to about ten million morgen, without the special consent of the government.[39] That is, natives were temporarily forbidden to purchase land in ninety-two per cent of the area of the country. A land commission was to be appointed to recommend additional areas in which natives would be permitted to purchase land to the exclusion of Europeans. In other words, the purpose of this act was to bring about a form of territorial segregation between white and black.

The act also prohibited new agreements whereby the native secured the use of land through the payment of rent, whether in cash or in kind. The native could, however, continue to live on European land, provided he rendered ninety days' service as a laborer for the European owner, every year. But natives residing on European land in the Transvaal and

[37] Except in the locations where land was communally held or under the Glen Grey system. Cf. Vol. I, p. 91.

[38] Statutes, *cited*, 1913, p. 436.

[39] Europeans could not buy land in native areas—a comparatively unimportant restriction.

The 1905 Commission was of the opinion that "it is necessary to safeguard what is conceived to be the interests of the Europeans of this country, but that in doing so the door should not be entirely closed to deserving and progressive individuals among the Natives acquiring land." Consequently, it recommended that "purchase by Natives should in future be limited to certain areas to be defined by legislative enactment." Cd. 2399, *cited*, p. 26.

Natal could not thus be turned off by the government. Apparently the owner could do so. Many European farmers at once took advantage of this provision to oblige squatters to sign labor agreements. But many of the latter refused, preferring to move into already over-crowded cities.[40]

Regarding these measures as another step in reducing the native population to serfdom, the Native African National Congress sent a fruitless delegation to London. Missionary bodies also protested that the Act was unjust.[41]

6. *The Beaumont Commission and Local Committees*

Following the passage of this Act, the government appointed what came to be known as the Beaumont Commission, to define native purchase areas. The report of this Commission, delayed by the outbreak of the war, was finally submitted to parliament in 1916. It proposed that about 8,500,000 morgen be set aside as areas where natives could purchase land, making the total area which eventually might be occupied by native owners about 18,324,647 morgen.[42] Thus it proposed to set aside about 13.3 per cent of the land for five million natives, reserving the remainder for one and a half million Europeans. But even so, European sentiment was that the proposal was too generous.[43]

[40] For a partisan statement of the hardships and bitterness caused by the expulsion of squatters, Cf. Sol. T. Plaatje, *Native Life in South Africa,* 1914, Ch. XIV. A writer in the *Round Table* says, "There is no doubt that a great deal of unwise intimidation took place after the 1913 Act. And natives who were unwilling to place themselves under contracts of service were given notice to quit, and found themselves unable to enter into contracts with other farmers as squatters. It may be asked, 'Why did they object to become servants?' And the answer is obvious. They felt that they were surrendering the small measure of independence to which they had attained. They were placing themselves and their families entirely at the disposal of their master. It is true that before 1913 they were subject to eviction if they did not comply with the wishes and the demands of their masters, but at any rate they had the result of their own labour in the shape of coin with which to barter. It gave them some measure of independence." *Round Table,* No. 34, 1919, p. 405.

[41] The Fifth General Missionary Conference of South Africa passed this resolution: "While recognizing that the Natives Land Act of 1913 seeks permanently to secure to Native occupation the Reserves and locations in the several Provinces, yet on the other hand

"1. Whereas certain provisions of the Act impose extreme hardship on that large section of Natives who are compelled to live as farm tenants or squatters, and

"Whereas the fact that the schedules of the Act defining white and black areas have not been confirmed, makes it extremely and unnecessarily difficult for Natives to purchase land,

"2. Resolved, that this General Missionary Conference of South Africa earnestly requests the government to investigate, through the Native Affairs Commission, the deplorable conditions that have arisen under the operation of the Act, with a view to affording early relief from the injustice suffered by Natives in certain sections of the Union." *Proceedings, cited,* p. 24.

[42] *Report of the Natives Land Commission,* U. G. 19-1916 in Vol. I, pp. 43 ff.

[43] Cf. the testimony printed in Vol. II of the Report of the Commission.

Instead of approving the Beaumont areas, a committee of parliament asked the government to refer the question to a committee appointed by each of the four provinces, a suggestion which was followed. These committees cut down the Beaumont areas, except in the Cape.[44] In Natal, they were reduced from 3,840,341 to 934,340 acres.[45]

No action was taken, however, upon the recommendations of the local committees until 1927.[46]

Despite this failure to establish native purchase areas, it was the policy of the government to grant permission to natives to purchase land in the areas recommended by the Beaumont Commission. The courts held, moreover, that the Act did not apply in Cape Province, in view of the fact that Cape natives were entitled to the franchise.[47]

Thus only about eight per cent of the area of the Union is native land. Outside of this area, except for the Cape, a native cannot buy land without consent; and the government took no action before 1927 to establish areas where such purchases might take place which, under the Beaumont Commission's recommendation, would cover an additional six per cent of the Union. The shortage of native land is not due to a shortage of land throughout South Africa as a whole. It is due to the fact that at present this land is locked up in large European holdings, totalling, as we have seen, nearly 110,000,000 morgen in the Union.[48] Nearly ten million acres of this land are held by large land companies, especially in the Transvaal, with a view to ultimate mining exploitation or to closer settlement.[49]

7. *European Land*

For the most part, European land is held under freehold title without any obligations of development. Holdings of twenty thousand and forty thousand morgen are not unknown. Land has been obtainable in

[44] *Report, Local Natives Land Committee,* Cape Province, U. G. 8-1918, p. 19.

[45] *Report of the Local Natives Land Committee,* Natal, 1918, p. 15. This Committee, proposed, however, that 2,809,147 acres should be set aside as neutral areas where either Europeans or natives could purchase land.

[46] For the Proposed Land Bill, Cf. Vol. I, p. 140.

[47] Between 1913 and 1921, some fifty-five tribal, forty-three communal, and twenty-four individual purchases of land were negotiated by natives with the approval of the governor general. All land tribally purchased must be registered in the name of the Minister of Native Affairs in trust for the tribe. Tribal levies for purchase of land have been authorized. These tribal purchases have not, however, always been successful. Purchasing land, as a rule, on installment, natives lack a sense of responsibility in completing the purchase. *Report of Native Affairs Department,* 1919-1921, U. G. 34-1922, p. 12.

[48] There are only 942,280 morgen of unalienated Crown land. *Natives Land Commission, cited,* Vol. I, p. 4.

[49] Cf. *Minority Report of the Economic and Wage Commission, cited,* pp. 308, 365.

such large quantities and on such easy terms that the farmer of South Africa in most cases has lacked the capital to engage in intensive agriculture. "In most cases, the South African farmer invests too much in acquiring his land, probably because he wishes to avail himself of the unearned increment due to the abnormal increase in the price of land found in young countries." [50] Less than five per cent of the land alienated to European farmers is under cultivation to-day.[51] This condition is partly due to transport difficulties and the absence of an adequate water supply. But it is also due to the mere extent of these holdings as a result of which the average South African farmer, finding it impossible to develop his entire acreage intensively, has become a pastoralist, keeping cattle and sheep, or has rented much of his land to native tenants.[52] He has signed *bijwoner* agreements with poverty-stricken white men, many of whom are inefficient farmers.[53]

This system of land tenure has, therefore, not only deprived the native of an independent means of existence, but has operated to increase the Poor White class and to hamper the agricultural expansion of South Africa.[54]

Moreover, few farmers are subject to the income tax,[55] and no taxes

[50] H. D. Leppan and G. J. Bosman, *Field Crops in South Africa,* Pretoria, 1923, p. 16.

[51] *Year Book, cited,* p. 458. This gives the number of acres under cultivation as 10,691,278, which is about 2,350,000 morgen.

[52] Writing of the early Boer farmers, Sir G. Cory says: "The extent of the country seemed illimitable, and the farmers helped themselves liberally to the land. Their cattle runs were probably never less than 5,000 or 6,000 acres, and afterwards certainly more, for which, when it could be recovered, a yearly rental of two pounds ten shillings was paid until 1732, and five pounds thereafter. In consequence of the increasing extent of country over which the white population were becoming scattered, and the increasing difficulty of control by the authorities at the Cape, endeavors were made from time to time to prevent further dispersion. . . . But the burghers felt they could treat all such orders with contempt, knowing well that there was no longer any possibility of the penalties being enforced. These farmers, or Boers, thus came to lead a semi-nomadic existence, wandering about from place to place with their flocks and herds as better pastures and more water tempted them." G. E. Cory, *The Rise of South Africa,* Vol. I, p. 13. It appears that they have retained these traits until recently.

[53] "During the post-war boom, many farms in this [Free State] as in other areas of the Union, changed hands at prices beyond their normal value, thus rendering it almost beyond the capacity of the land in times of normal or approximately normal prices to produce a reasonable return on the money invested. . . . Consequently, the bijwoner had to go and was replaced by the Native laborer." *Census,* 1921, *cited,* p. 40.

[54] The effect of the tariff policy on this question is discussed in Vol. I, p. 65.

[55] The Commission in regard to the taxation of Incomes derived from Farming Operations, U. G. 3-1919, p. 27, says: "There is a large number of farmers who own their own land, much of which is far in excess of the capital at their command, as they are, as a rule, men of small capital who are only able to maintain a struggling existence at or about the exemption limit. Neither of these two classes

worthy of the name are levied on undeveloped land. In 1913, the Small Holdings Commission [56] reported:

"The taxation of farm land in the Transvaal is so light as to be almost negligible. . . . The method adopted for taxing land is not based upon any principle, but is purely arbitrary. A freehold farm of, say, 3,000 morgen is taxed at ten shillings per annum, while any division of that farm from one morgen to 1,499 morgen in extent is subject to a tax of five shillings per annum.[57]

"The very lightness of the burden is in itself an inducement to anyone possessed of the requisite amount of capital to purchase land, not with any intention of looking to the produce of that land and the results of his labor to bring back to him his capital with interest, but secure in the knowledge that the interest may be paid by farming the land to natives, and that the increasing demand for land will insure the eventual return of an increased capital.

"The existing method of land taxation is therefore conducive to speculation and to the creation and maintenance of fictitious values, out of proportion to the true values, and encourages the locking up of land to the detriment of the people. We are convinced that, while other causes are to be reckoned as contributory factors, the principal cause in the sphere of government action why, notwithstanding the increasing number of people who desire to take up land for cultivation, large areas of land remain idle, uncultivated, and sparsely populated, is to be found in the absurd and antiquated method of land taxation."

The Commission's suggestion that land tax legislation be enacted in South Africa similar to that adopted to combat the same evil in New Zealand deserves consideration.

Thus, the natives of South Africa have been subject to a large number of restrictions. Holding only eight per cent of the land of the country, they have been obliged to seek work in European centers. The passage of the color bar legislation blocking employment outside, operates to throw them back into their reserves.

Moreover, the legislation forbidding natives to buy land outside the reserves makes the native's problem of existence more difficult than ever.

(*i. e.*, farmer or bijwoner) contributes anything whatever to the income tax of the country."

The commission goes on to say:

"It is repeatedly being proved to demonstration that the successful farmer is the farmer whose acres are relatively few in comparison with what we have been accustomed to in South Africa as a whole."

[56] *Report of the Small Holdings Commission,* (Transvaal), U. G. 51-1913, p. 43.

[57] At this time, the Transvaal native paid a tax of two pounds ten shillings.

Before discussing the rising stream of protests against this situation, we shall discuss the system of administration in the Transkei—a territory which has, to a certain extent, been shielded from the effects of European industrialism.

CHAPTER 6

THE TRANSKEI SYSTEM

In part of the Cape Province, natives and Europeans live side by side, acquire land, and exercise the franchise upon the same terms. Resident magistrates, having both judicial and administrative power, govern Europeans and natives alike.[1]

But in the Transkei—an area covering sixteen thousand square miles lying between the Kei river and the Natal border—a policy not of Identity, but of Differentiation, has been followed.[2] With the exception of about three thousand square miles, the European farmer has been excluded from this area, and the native is allowed to live to himself. As a rule, the territory is not subject to legislation passed by the Union Parliament. Instead, its laws are made by government proclamation, while the territory is administered by a special body of magistrates. In other words, the Transkei is a native state, having an administration separate from that of other parts of the Union. The natives of the Transkei have, however, the franchise upon the same terms as other Cape natives.[3]

Beginning with 1833, the Cape Government attempted to define its relations with the tribes along its eastern borders through a series of treaties in which the respective chiefs promised to preserve order and protect white visitors.[4] Following the Eighth Kafir War, Sir George Cathcart adopted a policy under which the people should continue to be ruled by their chiefs. But his successor, Sir George Grey, without giving the Cathcart plan a trial, inaugurated a system of gradually displacing the chiefs by European magistrates. In the Acts of 1865, 1877, 1879, 1885,

[1] Cf. *Rules and Regulations for the Guidance of Civil Commissioners, Resident Magistrates and others.* Cape of Good Hope, 1904, Ch. III.

[2] E. G. Brookes, *The History of Native Policy in South Africa from 1830 to the Present Day,* Ch. IV.

[3] The Act of August 15, 1879, annexing the Transkei provided that no Colonial Acts could apply unless expressly provided in such act or unless extended by proclamation. *Cape of Good Hope Statutes,* Vol. I, p. 1523. But with the establishment of Union, laws passed by parliament came automatically to apply to the Transkei unless an exemption is made.

Implied in the acts of annexation, the power to issue proclamations for this territory was expressly granted in an Act of 1897, *Statutes, cited,* Vol. III, p. 3846.

[4] Cf. Brookes, *cited,* p. 35.

and 1894, the areas now included in the Ciskei and Transkei were annexed by the British Crown.[5]

1. *Administration*

While the Ciskei was placed under regular Cape administration and laws, the Transkei was given a separate constitution. It became an autonomous area, at first under three chief magistrates, but now under one such official, who governs the territory from its capital at Umtata. The chief magistrate is responsible to the Department of Native Affairs of the Union Government at Pretoria. He is assisted by an assistant chief magistrate and by a secretary and treasurer of the council.

The principles underlying the Transkei system were first embodied in an act passed by the Cape Parliament in 1894, providing for the "Disposal of Lands and for the Administration of Local Affairs within the District of Glen Grey and other Proclaimed Districts."[6] This act provided for: (1) The establishment of a native district council, composed of members chosen partly by the government and partly by the natives; (2) the levy of a local tax rate by the council to be expended on the district; (3) a special system of individual land tenure;[7] (4) a labor tax requiring every male native to pay ten shillings a year, unless he had been in service beyond the borders of his district for at least three out of the preceding twelve months. The opposition of the natives to this tax, designed to assist European employers, led them originally to oppose the other features of the Glen Grey Act. The tax was repealed in 1905—largely because it had led natives to desert their districts wholesale.[8]

The Transkei is divided into twenty-seven districts, at the head of each of which is a European magistrate—one for about every 36,600 people, in contrast to Nigeria, where there is a commissioner for every 100,000 people. However, the population of the Transkei districts greatly varies. The visitor is impressed by the high quality of the men holding these positions.

Although the million inhabitants of the Transkei are divided into various tribes, such as the Griquas, the Pondos, the Tembus and Fingos, the Transkei Government, in imitation of the French, ignores tribal divi-

[5] The Ciskei is the area lying west of the Kei River. *Ibid.*, Vol. I, pp. 961, 1524, Vol. II, p. 2251. Cf. also F. Brownlee, *Transkei Native Territories, Historical Records,* Lovedale, 1923.

[6] *Statutes, cited,* Vol. III, p. 3372. Prof. Brookes attributes the origin of the system embodied in this Act, not to Cecil Rhodes, but to Charles Brownlee, Sir Walter Stanford, Sir Henry Elliott, and other local magistrates. *The History of Native Policy, cited,* p. 109.

[7] Cf. Vol. I, p. 91.

[8] *Statutes, cited,* Vol. III, p. 4835. The Glen Grey Act was extended to the Transkei by Proclamation No. 352 of 1894 and Proclamation No. 152 of 1903.

sions and traditional chiefs. A district is divided up into locations, without respect to tribes, each having about a thousand inhabitants for whom a native headman, usually nominated by the people but appointed by the Transkei Government, is responsible. There are 916 headmen in the Transkei who receive stipends ranging from twelve to thirty-six pounds a year, depending upon length of service. At the end of twenty-five years, they may receive a pension. The small size of stipends has been frequently criticized.[9]

While about twenty of the traditional chiefs are now headmen, they are not recognized as chiefs and they do not possess their former power.

Except in Pondoland, all judicial authority is now exercised by the European magistrates who may impose a year's imprisonment, 15 strokes, or a hundred pounds fine. Sentences of more than three months or fines exceeding twenty-five pounds are subject to "review as of course." Civil cases between natives are tried according to native law, sometimes determined with the aid of native assessors. Criminal cases, however, are tried according to a Native Territories Penal Code, enacted in 1886, as a result of the studies of a Cape Native Laws and Customs Commission.[10] Appeals may be taken to the Native Appeal Court,, consisting of the chief magistrate and two magistrates as assessors.[11]

Largely because of the experience of Natal, which codified Native Law in 1891, the Transkei Administration has been opposed to the codification of native custom. In 1921, the Transkei Council carried a motion, despite the opposition of some magistrates, asking the government to appoint a commission with a view to codifying native custom in the Territory. In its reply, the government said that "native law is customary, and it would be incongruous with its essence to deprive it of its elasticity." [12]

While the administration has justified giving complete judicial power to European magistrates on the ground that the chiefs are unfit to exercise this power, the present system is not entirely satisfactory. Native assessors have been accused of taking bribes. European magistrates, overworked with administrative duties, are obliged to try hundreds of civil cases a year, many of which involve intricate questions of native law with which native chiefs are presumably more familiar than Europeans. Moreover, the method of enforcing the judgments of the magistrate court is

[9] *Proceedings of the Transkei Territories General Council,* 1924, p. 99.

[10] *Statutes, cited,* Vol. II, p. 2349.

[11] The more serious cases are tried by the Eastern Districts Local Division of the Supreme Court. Hitherto, juries have always been composed of Europeans, but the natives now demand that native jurymen sit on native cases. *Proceedings,* 1925, p. 93.

[12] *Ibid.,* 1921, p. 71; 1923, p. xx. The South African Native Affairs Commission, 1903-1905, also declared against codification. Cd. 2399, para. 232.

open to criticism. The European "messengers" who execute such judgments collect delinquent taxes and serve notices, receive fees (amounting to two and a half shillings out of every ten-shilling delinquent hut tax collected), which give them an income in several cases of between one and two thousand pounds a year. In other parts of the Union, these court officials are officers of the Department of Justice and are paid on a salary basis.

It appears also that the natives would prefer to have their civil disputes, mostly concerning marriage and property, tried by chiefs rather than by European magistrates. This matter is discussed in another connection later.[13] In its 1926 session, the Transkei Council passed a resolution asking that headmen should be given jurisdiction in minor offenses, with power to levy fines not exceeding two pounds, subject to an appeal to the magistrate.[14] If the government sees fit to grant this request, it can not logically decline to grant headmen power to try civil disputes.

In addition to their judicial power, the magistrates collect the taxes and maintain order, with the aid of the Transkei police. In fact, a magistrate is the sole governing authority in his district.

2. *Glen Grey Land Tenure*

The European magistrate has supplanted the native chief not only as a judge, but also as a guardian of the land. Before the annexation of the Transkei, the natives lived under a régime of communal tenure in which the land was controlled by the chief. One of the objects of the Glen Gray Act of 1894 was to do away with communal tenure in favor of a new system, based, to a certain extent, upon European conceptions of property. The administration undertook to assign "one plot of land to one man," sufficient for the support of a family, which was estimated to be four morgen, or nine acres. Three-tenths of each location is set aside for individual allotments and the remainder as commonage, where the people may graze their herds. In return for such an allotment, the native is obliged to pay a quit-rent fixed at fifteen shillings. The title which the native receives for such land from the government contains a number of restrictions. The land cannot be alienated nor mortgaged without the Governor-General's consent, nor is it liable to execution for debt. The government may, however, forfeit the land in case the owner engages in rebellion, is twice convicted of theft, fails to occupy the land beneficially for a period of three years, or pay his rent for two years.

Before actual titles can be registered, a survey is necessary. But a

[13] Cf. Vol. I, p. 103.

[14] *Proceedings, cited,* 1926, p. 89.

survey is an expensive and tedious business. Between 1898 and 1925, only seven out of the twenty-seven districts in the Transkei were surveyed. At the present time, about fifty thousand titles are registered at Umtata. The cost to a native holder amounts to about four pounds, five shillings. Because of the expense, the Government has—for the time being—stopped new surveys.

In the non-surveyed districts of the Transkei, a native wishing land goes to the location headman who gives him an allotment under the control of the magistrate, who may issue to the holder a "Certificate of Occupation." Because of the absence of a survey, many disputes over the boundaries of these holdings have arisen. While under the titles issued in the surveyed areas, property may be inherited according to native law, under these provisional certificates in the non-surveyed areas the property reverts to the government at the death of the holder.

In 1908 a Natal deputation which visited the Transkei reported that the system of individual land tenure had promoted an economical occupation of the land, imparted to the occupier a sense of ownership, and exempted him from injustice due to the favoritism of chiefs; and that it had also increased government revenue by fifty per cent of the former hut tax.[15]

Undoubtedly, the object in introducing individual tenure into the native territories was to give the holder an incentive and opportunity to work which a native under communal tenure presumably does not have. A number of Transkei magistrates do not feel, however, that the system has had any such effect. That is to say, individual tenure in the surveyed areas has not produced a better type of agriculture than the semi-communal system of the unsurveyed areas. Hundreds of holdings have reverted to the government due to failure to pay rent. Natives who hold titles still cling to communal conceptions of property.[16] The introduction of individual tenure has, on the other hand, weakened the power of the chiefs; while it is rapidly producing among the younger sons a landless class, since the holding, scarcely large enough to support one family, passes only to the eldest son. No land is now available for new allotments to younger sons who under the communal system could have claimed part of the communal heritage. At present, they are forced out into the European labor market, unless they find other means of support, until a forfeited allotment of land becomes available.

[15] *Native Affairs in Natal,* Cd. 4328 (1908), p. 36.
[16] Cf. *Address* by Lt. Col. E. H. W. Muller, on the *Administration of the Transkeian Territories,* 1924, p. 11.

3. *The Bunga System*

While the administration of the Transkei is in the hands of a European authority, the natives exercise some control through an interesting council system. In each of eighteen districts in the Transkei is to be found a district council, composed of the magistrate and six native members, two nominated by the government, and four by the people. In some districts, location headmen nominate the latter members, but in the majority of districts, this is done by election. These district councils meet quarterly to discuss such questions as road maintenance, dipping, local husbandry, and agriculture. They have no actual power, however, over administration, and no funds. But they serve as a basis of representation for the General Council, to the agenda of which they may also submit items. The General Council frequently refers a resolution, upon which there is a difference of opinion, back to the district councils.[17]

At the present time, it is doubtful whether the membership of the district council is large enough to make it an organ of effective discussion. Perhaps for this reason, elections for membership in the past have been usually cut and dried; only one set of candidates has as a rule been presented.[18]

Since 1904, these district councils have been represented in what is known as the Transkeian Territories General Council, or the "Bunga," which meets annually at Umtata. It is composed of three representatives from each district, two being nominated by each district council and one by the government, making a total of fifty-four native members.[19]

District councils and members submit items for discussion before the council meets. The agenda, the draft estimates, and other material are printed in the Kafir language and are circulated to members before the session opens.

Meetings of the Bunga are held in the Bunga meeting hall, a simply constructed building which was originally a church. The chief magistrate is the presiding officer, and the eighteen district magistrates are non-voting members. While the native members occupy chairs arranged in an oval around the room, the European magistrates sit at a long table inside the circle of chairs, where they take an active part in the debates and are invariably appointed chairmen of select committees, which are frequently appointed.

[17] Cf. *Proceedings, cited,* 1922, p. 24.
[18] *Report of Native Affairs Department,* 1912, U. G. 33-1913, p. 39.
[19] Paras. 12 and 13, Proclamation 152 of 1903, printed in a pamphlet, *Proclamations and Regulations relating to the Constitution and Functions of Councils in the Transkei, 1905.*

4. *The Conference of Magistrates*

Largely as a result of the participation of these Europeans, who constitute one-fourth of the total membership of the body, the Transkei Council conducts its activities upon a higher plane, perhaps, than any other native body in Africa, excepting the Colonial Council in Senegal. Nevertheless, native opposition to the presence of the magistrates has arisen. The time of the magistrates is more valuable than that of the native representatives; consequently, they are sometimes impatient at the length of native speeches, and the presiding officer frequently urges them to restrict debate. The magistrates do not, however, force their views on the natives. For instance, when natives expressed opposition to the suggestion of a magistrate that the daily reading of the minutes be dispensed with, the magistrates did not press the point.[20]

According to the proclamation of 1903, "after discussion, the representatives of the several districts present, shall, by voting, record their opinions upon the subject under consideration, and the Chairman, after consultation with the other Magistrates present, shall decide upon the action to be taken." To give effect to this provision, it is the custom to hold a conference of magistrates following each Bunga session. Sometimes the magistrates disagree with the resolutions of the Bunga, and in such a case the Secretary of Native Affairs usually accepts their opinion.[21] Inasmuch as the conference virtually met in secret, the natives gained the idea that it vetoed many more of the Bunga resolutions than it actually did. Consequently, in 1921, a native member introduced a motion which would, in effect, have abolished the conference of magistrates altogether.[22] A native councillor declared, "The people were saying the reason why their resolutions were not adopted was because the magistrates cut them down when they remained behind after the Council had risen. . . . That matter was the sole topic of conversation amongst the natives when they went home." [23] The motion was finally amended to the effect that the recommendations of the magistrates' conference should be published with the proceedings of the council and that the conference should consist of an equal number of magistrates and native members.[24]

No action having been taken, a councillor at the 1925 session again

[20] *Proceedings, cited,* 1925, p. 109.

[21] But in 1923, the government overruled the conference in favor of a council resolution asking that a week's leave on pay be granted road foremen. *Ibid.,* 1923, p. xxi.

[22] *Ibid.,* 1921, p. 117.

[23] *Ibid.,* p. 119.

[24] *Ibid.,* p. 137. In its comments, the government stated that it was "unaware of any instance in which the recommendations of the Conference have disregarded what Magistrates deemed to be the interests of the Natives." *Ibid.,* 1922, xviii.

moved that the recommendations of the magisterial conference be published along with the council minutes.[25] The mover also declared that the natives really did not want the conference to discuss their resolutions at all; and that several districts now outside the council system declined to come in because of the conference of magistrates. Several of the magistrates, however, declared that the natives needed the magistrates' help. One native said that those natives who thought they could dispense with this aid should "go to a place called Haiti, which was still a backward place, where the blacks ruled the whites." It was finally agreed that the resolutions of the conference should be published with the minutes of the Council, while the Chief Magistrate invited the natives to attend sessions of the conference as spectators.[26] Only two natives availed themselves of the privilege in 1925.

In the past, a spirit of good-will has usually prevailed in the relations between magistrates and native members. But with the growing confidence and racial consciousness of the native, there is a danger that feeling between the two sections of the Bunga will develop. While the services of the magistrates must be recognized, the fact remains that their presence may, in the future, hinder the development of a feeling of responsibility in the natives which they might otherwise assume if the Council were of wholly native composition, as in Basutoland.

5. *Powers*

Now what are the powers of the Bunga? Technically, it is only an advisory body, but in practice it has much more control over legislation applied to the territory than has, for example, the Basutoland Pitso.[27] When the administration wishes to enact a proclamation, its practice is almost invariably to lay the draft proclamation before the Bunga. "The Department at present endeavors to secure the benefit of the advice of the Council in all matters affecting the Transkeian Territories before taking action." [28] Resolutions in regard to such proclamations and to any other matters, having been voted by the Bunga, are discussed by the magistrates' conference. They then are sent, along with the comments of the conference and of the chief magistrate, to the Native Affairs Department at Pretoria. The department sends replies to these communications, which are published in the Bunga proceedings. It may frame proclamations, issued in the name of the governor-general, carrying these resolutions into effect.[29] It is

[25] *Ibid.*, 1925, p. 97. [26] *Ibid.*, 1925, pp. 46, 113. [27] Cf. Vol. I, p. 180.

[28] *Proceedings, cited,* 1921, p. xxxiv. One exception to this rule was the abolition of the Transkei Divorce Court which, however, affected Europeans more than natives. Cf. *Ibid.*, 1925, p. 230.

[29] Cf. *Ibid.*, 1920, p. 164. Cf. Draft Proclamations on Formation of Co-operative Societies, *Ibid.*, 1926, p. 34.

safe to say that the department never enacts legislation applying to the Transkei to which the Bunga has expressed its opposition; while as a rule it consults the Bunga before taking any important action affecting the territory.

Much of the attention of the Bunga is devoted to amending customary law, particularly in regard to seduction and lobolo questions.[30] But in such matters, most members are conservative, as was shown by the overwhelming defeat of a proposal for registration of native marriages in 1922—a practice unknown to native custom.[31] Nevertheless, the "liberals" scored a victory in the 1926 session when the council defeated a motion requiring the consent of the girl's father before a marriage could take place.[32] The government, too, makes sure that native opinion definitely favors a change in native custom before it enacts legislation to this effect. Thus it insisted in 1920 and 1921 that a resolution of the Council recommending the abolition of the custom under which a husband may recover lobolo upon the death of his wife, be referred to the district councils. Only after it was assured that the majority really favored such a change, did it issue a proclamation to this effect.[33]

In addition to native custom proper, the council passes resolutions in regard to stock, land, dipping, native agriculture, and dozens of other subjects affecting the life of the territory. One hundred and thirty-one items appeared on its agenda in 1925.

Moreover, the Bunga serves as a forum of native opinion in regard to Union native policy. In 1909, the Bunga attacked the color bar provisions of the Act of Union. In 1923, it protested against the employment of European instead of native labor in the construction of a Transkei railway, despite the statement of the chairman that such a protest would be "practically a vote of censure on the Government."[34] In 1925 it likewise protested against the Color Bar Bill, and the increased duties on cotton blankets.[35]

6. *The Estimates*

Perhaps the greatest power of the council is over the expenditure of the local rate of ten shillings and quit rent,[36] which now produces a revenue amounting to about 114,000 pounds annually. The Union Government bears the expenses of general administration, such as the salaries of magis-

[30] Lobola is the payment, usually of cattle, made by the prospective husband to the family of the girl he wishes to marry.

[31] *Proceedings, cited,* 1922, p. 181. [32] *Ibid.,* 1926, p. 75.

[33] *Ibid.,* 1921, p. 84; *Ibid.,* 1921, xxxvii; *Ibid.,* 1922, xv; Proclamation No. 189 of 1922. Even then the change was criticised by natives, see *Ibid.,* 1923, p. 127.

[34] *Ibid.,* 1923, p. 143. [35] *Ibid.,* 1925, pp. 114, 228; *Ibid.,* 1926, p. 212.

[36] Cf. *Transkeian Proclamations,* 1913-1916, p. 124.

trates and the expense of the police. The local rate is used for the direct benefit of the Transkei natives.

Expenditures are authorized in annual estimates, prepared by the government on the basis of suggestions which come in from the district councils. The Bunga refers the estimates and the report of the treasurer upon the expenditure of last year's estimate to a select committee and then votes the estimates chapter by chapter—a procedure which gives rise to much debate.

The largest expenditures go to public works—some forty-seven thousand pounds a year. Out of this sum, the council pays the salaries of a European engineer, several assistants, and a road inspector. While the trunk roads of the Transkei are maintained by the Cape Province, the Bunga is responsible for the construction and maintenance of the smaller roads (including bridges) as voted at the suggestion of members. This work, likewise paid out of the budget, is in the hands of the European engineer.

7. *The Bunga Farm*

Large sums—amounting to about forty-four thousand pounds a year —are also expended on the improvement of native agriculture. With this money, the Bunga not only employs a European director of agriculture, a supervisor, and a number of agricultural demonstrators, but it also supports two schools of agriculture, the oldest of which was established at Tsolo in 1913. European principals and lecturers at these institutions are supported by council funds. The Tsolo farm has an area of one thousand eight hundred morgen. To be admitted, a candidate must have passed Standard V (about the fifth grade) and be over sixteen years of age. The number of students at Tsolo is limited to fifty, and many are turned away. The course is for two years. Four hours of each day are devoted to lectures; and the remainder to practical work. The lectures embrace twelve different subjects, such as agriculture, veterinary science, stock breeding, botany, dairying, forestry, and book-keeping. In order to get in touch with the more elderly farmers, short courses, lasting only four days, are held in the winter. Lectures are interpreted into Xosa. The farms also maintain stock, largely to improve native breeds, and they also sell high quality seed.

Between thirty and forty per cent of the natives who follow the two-year course become farm demonstrators, while the others return to their homes. The job of a farm demonstrator is to teach natives to improve their agricultural methods. One demonstrator serves about seven hundred square miles; his method is to plow and care for half of a native field, allow-

ing the native to till the other half by the old method. When harvest comes, the native has a visual demonstration of the superiority of plowing and cultivating over his method of sowing broadcast and using only a hoe. These demonstrators are responsible to a European supervisor. Since 1913, the Tsolo school has produced about fifty demonstrators who have not only been eagerly employed in the Transkei, but also in the Ciskei, and as far north as Tanganyika and the Belgian Congo.

The Bunga supports several experimental farms and wattle plantations (the wood of which is used for building huts). It has appropriated sums to remedy soil erosion and to erect sheep tanks, dams, and fences. Under its auspices, agricultural shows are held. At the Umtata show in 1925, there were over two thousand entries.

In 1926, the council took a further step in aiding native agriculture by approving a draft proclamation providing for the establishment of native cooperative societies to furnish its members with cooperative tools, stock for breeding purposes, etc.[37]

As a result of these various efforts, some improvement in native methods of agriculture has been made. Ten years ago, no land was plowed in the winter for the purpose of retaining moisture. But many natives now engage in winter plowing so that they can sow after the first spring shower instead of waiting for heavy rains in the summer. As a result of better cultivation and improved seed, the average yield of native maize which is now from one to three bags (two hundred pounds) an acre, is being increased to eight and ten bags. Some improvement in stock has also been made, but progress here is extremely difficult because of the "lobolo" custom. As one head of stock is as good as another for this purpose, the South African native has an incentive merely to increase the number, and not the quality of his cattle.

8. *Medical Work*

Finally, grants amounting to two thousand six hundred pounds are made to hospitals which provide care for native patients.[38] According to the Union Public Health Act,[39] responsibility for dealing with matters affecting public health is imposed upon the local governing bodies, which would include the Transkei Council. The Union Government pays pound for

[37] *Proceedings, cited,* 1926, p. 143.

[38] Until 1926, the council appropriated eighteen thousand pounds a year to improve the salaries of native teachers in the Transkei, the main expense of whom was borne by the provincial government. The Transkei appropriation came to an end with the establishment of the Union grant-in-aid. Cf. Vol. I, p. 119.

[39] *Statutes of the Union of South Africa,* 1919, p. 184.

pound the amounts expended by local bodies in controlling infectious disease. It appears, however, that the members of the Transkei Council have been more interested in the eradication of stock than human disease.[40] So far council expenditures have not equalled Union expenditures on public health in the Transkei. While there are twenty-seven surgeons in the territory, the medical service for the native population is inadequate. As a result of the ravages of typhus, the council appointed a Committee on Public Health in 1921;[41] but it does not appear to have made a report. In 1922, the council also passed a resolution urging the government to adopt more stringent measures in combatting typhus fever.[42] At the same time, a resolution was passed requesting the government to instruct district surgeons to visit periodically the remote parts of their district.

Most of the so-called "red" natives (who smear their faces with ochre and wear red blankets) consult, in times of sickness, either witch-doctors or herbalists, some of whom effect remarkable cures by the use of herbs. In Natal, the government licenses such "doctors"; and members of the Transkei Council have made proposals that the government do likewise in their territory some nine times since 1908.[43] The government, however, asserts that it is almost impossible to distinguish between a witch-doctor whose influence has been evil and a genuine herbalist. While it has not been able therefore to license native doctors, it has agreed not to prosecute a herbalist practising without a license.

As yet, there are no native dispensers in the Transkei, similar to those found in Uganda, the Belgian Congo, and French West Africa. The establishment of a school to train such dispensers to serve not only the Transkei but other parts of the Union is of urgent importance.[44] Plans for such a school are now being made.

Out of a total appropriation of 113,990 pounds by the Bunga in 1926, a total of 92,903 pounds is expended directly on native welfare.[45] Between 1903 and 1924, the Transkei Council authorized the expenditure of 1,409,129 pounds, of which 411,633 pounds went to education; 417,212 pounds to agriculture, and 386,063 pounds to public works.[46] As one

[40] The experience of government doctors in trying to dip native clothes to eradicate typhus has been discouraging, because of native apathy. *Proceedings, cited,* 1922, p. 196.

[41] *Ibid.,* 1921, p. 63. [42] *Ibid.,* 1922, p. 108. [43] *Ibid.,* 1926, p. 95.

[44] A hospital return of native patients is published in the *Proceedings* annually. During 1925, there were about eleven hundred patients in six hospitals. *Ibid.,* 1926, p. lxiii.

[45] 43,465 pounds on agriculture; 46,838 pounds on public works; 2,600 pounds on public health. The remainder goes to the expenses of the district and general councils.

[46] *Ibid.,* 1925, p. lxi.

native remarked at the 1926 session, "Through the Bunga they had got various things which they would otherwise never have got. . . ." [47]

9. *Dipping*

In the past, East Coast fever has ravaged the native herds of the Transkei, as well as of other parts of South Africa, destroying the chief source of native wealth. The white man's science discovered, however, that cattle could be saved from this disease by dipping them in a chemical solution. In 1913, the administration thereupon issued a proclamation making the dipping of cattle compulsory in the Transkei. This involves the construction of dipping tanks and the organization of dipping squads. The expense of dipping operations is not borne, however, by the general Transkei estimates, but by a special stock rate which produced a revenue of 41,239 pounds in 1924-1925. [48] 1,230,802 cattle are recorded on the dipping registers.[49] Except for the Idutywa district, where a native committee conducts and finances dipping operations, dipping is under the direction of the magistrates, and dipping funds are in the hands of the Transkei treasurer.

While all of these different operations are directed by European officials, responsible only to the chief magistrate, the Bunga does exercise a certain amount of control by debating the estimates and the annual reports submitted to the Bunga by the engineer, the agricultural director, the heads of the two agricultural schools and plantations, as well as by the treasurer. Members also may ask searching questions, which the chief magistrate is, like a minister in the House of Commons, usually obliged to answer.

10. *Demand for Native Self-Government*

But inasmuch as the chief magistrate and the administration have the last word, the Transkei has a representative, and not a responsible government. As a result, native members continually demand more and more control over and participation in actual administration. In the 1909 session, a native member, in moving the reduction in the amount of money spent on the roads, said, "This money was collected from people who were poor, and they expected the Council to look after all disbursements carefully. In the Report of the Surveyor there was no detailed statement of the roads constructed during the year. . . . They should have a clear report, giving details as to the cost of construction work done during the whole

[47] *Proceedings, cited,* 1926, p. 203.
[48] *Transkei Proclamations,* 1913-1916, pp. 19, 115-117.
[49] *Proceedings, cited,* 1926, pp. lxiv, lx.

year. . . ." [50] In the 1910 session, another councillor asserted that councillors had no say whatever in the appointment of officials, and he wished these words inserted so that they, as the disbursers of the people's money, might have a word on the spending of money in salaries.[51]

They have repeatedly asked that a greater number of natives be given responsible positions in dipping operations. In 1923, a councillor asked if there was any objection to people of a district taking over dipping operations and employing their own officers as was done in the Idutywa district. In reply, the government stated that the district councils were the bodies "to be entrusted with the conduct of dipping operations in conjunction with the officers of the government." [52] The natives, interpreting this reply to mean that the government would continue to control these operations as previously, introduced another motion expressing "great alarm and disappointment" at the decision. If the system of native control had worked well at Idutywa, it should work well elsewhere.[53] An amendment was finally passed, stating that while the Council did not wish to cast any reflection upon the present management of dipping, the district councils "should be given the fullest opportunity for cooperation." [54] This same question has been debated at other sessions; in 1926, one member said that it was over thirty years since dipping was first introduced and the white people were "still employed as Dipping Supervisors and the Native people employed as Dipping Foremen. . . ." [55] In 1924, a resolution was passed asking that the appointment of all foremen and laborers connected with dipping be subject to the approval of the district councils.[56]

The Transkei Administration has shown its sympathy toward these requests by appointing a large number of native road overseers, dipping and plantation foremen, and agricultural demonstrators. But it has declined to go to the lengths demanded by native members of the Bunga, on the ground that natives lack the qualifications for more responsible positions.

These different activities—dipping, road construction and scientific agriculture—were unknown to native life before the advent of the white man. In this sense, they are European activities; and the process of training natives to direct these activities must necessarily be long. Especially in connection with the eradication of disease, extremely high standards must be maintained, since the presence of disease in the Transkei will affect the white population in neighboring areas. Already European

[50] *Proceedings, cited,* 1909, p. lix. [51] *Ibid.,* 1910, p. 56. [52] *Ibid.,* 1923, p. 74.
[53] *Ibid.,* 1923, p. 182. [54] *Ibid.,* 1923, pp. 184, 188. [55] *Ibid.,* 1926, p. 127.
[56] *Ibid.,* 1924, p. 88.

farmers are urging that the Government Veterinary Department take over the dipping operations of the Bunga on the ground that greater efficiency is necessary to protect neighboring European herds.[57]

On the other hand, the more fundamental duties of government, such as the settlement of disputes, the maintenance of order, and the collection of taxes, have been performed in one form or another by native authorities since the beginning of tribal existence. However inadequately native authorities performed these duties in the past, they accumulated an experience and a tradition which are lacking in these newer activities, involving the application of European science. The visitor to the Transkei is struck by the fact that the administration is endeavoring to train native personnel to perform these latter duties, but is doing nothing to develop natives in such political matters as the administration of justice, local self-government, and the handling of revenue, which are the basis of all organized society, and with which tribal authority was thoroughly familiar before the coming of the European.

In view of the fact that the Hertzog government has impliedly established the goal of ultimate self-government for native areas, the Transkei authorities are now directing their attention to this problem. The development may take one of two forms: (1) the government may impose more and more responsibility upon educated native clerks working in the offices of European magistrates, with the appointment of native magistrates as an eventual goal: or (2) it may restore power to the traditional chiefs, subject to the supervision of European magistrates; it may give the chiefs more and more authority in accordance with their growing intelligence and ability. Apparently the Transkei Government leans toward the first alternative. On account of early wars, it has long been the policy of the Cape to destroy tribal authority. But if it ignores tribal forms, the Transkei will go counter to native policy in most of the other British territories in Africa and in the Belgian Congo.[58] Only the French follow the non-tribal policy, and the French are now turning, in theory, to the tribal system.[59] As we shall learn elsewhere, a native official whose only qualification is a mediocre European education cannot command from the natives the respect necessary to all successful governments, which is voluntarily given by the natives to traditional authority.

11. *Increased Power of Chiefs*

Moreover, the natives of the Transkei and other parts of the Union are demanding increased power, not for the educated young men, but for

[57] *Proceedings*, 1924, p. 91. [58] Cf. index, "native policy."
[59] Kenya also leans toward the non-tribal policy, Cf. Vol. I, p. 363.

their chiefs. In 1913, 1916, 1917, and 1921, the Bunga passed resolutions asking the government to consider the status of hereditary chiefs in the territory.[60] One councillor said, "To the Native people a Chief was like the sun—a sacred thing made to give light to the world." Another said, "Today a Chief was given his land by a constable from the office of the Magistrate. That was very bad law." A deputation was appointed to take up the question of hereditary chiefs with the Native Affairs Commission. In a discussion on the rights of chiefs in 1923, a councillor said, "Chieftainship was mentioned in the Bible." . . . He warned the Chiefs that when Native Chieftainship died, they would be displaced and whether they were B.A.'s or Professors they would know nothing of Native customs. In Basutoland the children at home were taught the Native customs, and as in the olden days, the Chieftainship in Basutoland still remained and progress had been made. Today [in the Transkei] no Chiefs were respected because Chieftainship was dead, because they had no power.[61] In 1926, similar opinions were voiced. One speaker said: "God created a king amongst the people. . . . After God had created a king He gave him power to govern his people by the laws he made." But the chief magistrate had taken away the powers of the chiefs. Now the chiefs and headmen could only use their mouths in governing the people, and the people did not listen. A European magistrate supported this opinion by saying that the "headmen were in the unhappy position of being responsible for anything that was wrong in their locations, without having any power to put it right."[62] Another magistrate said that one of his great aims was to build up a strong headmanship, because he believed a lot of the duties at present entrusted to European officials ought to be done by the headmen themselves.[63]

A leading Pondo Chief at Libode, Victor Poto, has built a court house where he decides disputes between natives despite the fact that the government does not recognize his tribunal. He also administers a Tribal Improvement Fund, composed of contributions from his people. In a plaintive petition to Prime Minister Hertzog at the time of his Transkei visit, the chiefs and people of Western Pondoland asked that this "Enyandeni Court" be recognized by the government. "We are not asking that anybody should be compelled to bring his case before our courts, but when people voluntarily bring their cases before our courts they should be prepared to abide by our judgments if they do not appeal." The Pondoland General Council, organized in 1911, declined to enter the Transkei General Council because the Pondoland Council is composed of local

[60] *Proceedings, cited,* 1921, p. 46.
[61] *Ibid.,* 1923, pp. 52, 56.
[62] *Ibid.,* 1926, p. 86.
[63] *Ibid.,* 1922, p. 122.

members nominated by the Paramount Chiefs—a tribal system which the Transkei Council ignores.[64] Various native delegations also informed the Native Affairs Commission that they wished the native councils, established in new areas, to be organized on tribal lines.[65] Chiefs are recognized by the African National Congress and by the Bantu Presbyterian Church.[66]

Similar sentiments were expressed at a native congress at Bloemfontein called by the Native Affairs Commission in 1924. One speaker said that nowadays the chiefs were figureheads with no authority. For small offenses which could be tried by the chief or his council, natives were dragged to court. The only way to enable parents to control their children was by adjusting the relations between the people and their chiefs. Another speaker said, "the Government should . . . give the Chiefs greater powers." [67] The Commission on Native Churches reported that tribalism was one reason for the establishment of separate native churches, and cited the example of the National Church of the Tembus. The goodwill between many parent churches and secessionists was due to the fact that the members put racial considerations above the religious point of view. "The tribal authority is far more potent and binding than the Church connection." [68] Thus despite the long-established

[64] Cf. Proclamation No. 169 of 1911, *Proclamation, cited,* p. 123. The demands for native courts have already been discussed. Cf. Vol. I, p. 91.

[65] *Report of the Native Affairs Commission,* 1922, U. G. 36-1923, p. 3.

[66] Cf. *Proceedings of the First General Assembly of the Bantu Presbyterian Church of South Africa,* 1923, p. 22.

[67] *Report of the Native Affairs Commission,* 1924, U. G. 40-1925, pp. 24, 32.

[68] *Report,* U. G. 39-1925, pp. 27, 29. While it looked forward to the eventual disappearance of tribal rule, the Natal Native Affairs Commission showed its necessity for some time to come in the following statement: "It may be asked if it can be regarded as either reasonable or feasible that a people accustomed for ages to the patriarchal system, the leading feature of which is a paternal despotism, can be successfully ruled by a system wholly remote and based on loyalty to, and reverence for, an ideal or notion of an abstract character. We do not look for sympathy from our public officials, but only integrity and a sense of duty and responsibility in administering laws which we believe to be just and suited to our conditions and ideas of life. But, with a people accustomed to, and comprehending no other than, personal rule, it is essential that the magnetic and powerful influence of human condescension and sympathy should not be ignored as indispensable to their successful control. . . . Formerly, the tribe was their cosmos, and tribal patriotism their highest altruism. Each thought and acted as a tribal unit in the enlargement of one tribe, or the preservation of another, the stimulus of which was varied by the excitement of hunting and the chase. . . . Having now no collective aim in life, without a ready and effectual means of expressing their opinions, the future uncertain, and, with the prospect of further burdens, need it excite surprise that the past, with its lingering trail of consciousness, should still influence their thoughts and reveal itself in a desire to return to old habits and modes of life? We never stopped to think that our system had become too impersonal for the masses, or to see the pathos in a simple people looking for fatherly advice and assistance from a purely judicial officer." *Report of the Natal Native Affairs Commission,* Cd. 3889, p. 11.

presence of European civilization, the natives insist on clinging to their institutions.

Unless the Transkei Government begins to grant natives actual participation in administration, either through native assistant magistrates or through native chiefs, it may soon be confronted with a cantankerous body, such as exists in India or the Philippines today, capable of making a lot of trouble, but having no responsibility. In view of the wishes of the natives, the experience of other parts of Africa, and the impossibility of successfully imposing European institutions upon a native people suddenly and against their will, it is to be hoped that the Government of South Africa will give serious study to the question of strengthening the judicial powers of chiefs and, wherever possible, reorganizing native districts and district councils upon a tribal basis.

12. *The Economic Factor*

The ultimate success or failure of the Transkei experiment will depend as much upon economic as political factors. A nomadic people seldom develops a high degree of civilization, and the progress of the Transkei is hampered by the fact that its male population is largely nomadic in character.[69] Urged on by economic pressure and the recruiting system, almost every male spends intervals of his life working at the Rand mines or in Natal.

When the Census of 1921 was taken, about eighty-six thousand men and four thousand women in the Transkei were away from home at European labor centers—a proportion presumably kept up throughout the year.[70] Estimating the male population at two hundred thousand (one-fifth of the total) this would mean that nearly one-half of the adult males are away at work. In view of the stringent physical requirements and of the term of six to nine months which the natives serve at the mines at Johannesburg, it would appear that nearly every able-bodied young man goes to the mines sometime during the year.

This ebb and flow of labor is due to the fact that under present methods of agricultural production, the Transkei is not self-supporting economically. In 1912, the combination of drought and East Coast fever produced a famine in this area, as a result of which mealies (corn), the staple native food, rose in some places to fifty-five shillings a bag.[71] In order to save families from starvation, the government authorized recruiters to increase advances to prospective laborers from two to five pounds. Even under normal conditions, the Transkei is obliged to import mealies,

[69] This is also true of Basutoland; Cf. Vol. I, p. 170.
[70] *Census, cited,* 1921, p. 247.
[71] *Report of the Native Affairs Department,* 1912, U. G. 33-1912, p. 14.

grown in most cases by European farmers, in order to feed its population. In 1924-1925, traders imported (in excess of exports) more than 147,000 bags.[72]

Thus in order to pay for food, to obtain money for lobolo, and to pay debts contracted to European traders, most young men are obliged to seek employment outside the territory, even if they possess six morgen of land. But owing to the growing population of the Transkei, which now has a density of about 60 per square mile, and the system of land tenure, a landless class is being produced which also must secure outside employment. "Young men are growing up in hundreds in every location; soon they will marry and settle down, but there is practically no land for them, no building lots, no garden lots." [73]

While the schools of agriculture and farm demonstrators are making strenuous efforts to improve agriculture, formidable obstructions are in the way. One of them is that the natives waste a prodigious quantity of grain in kafir beer. Moreover, the holding of beer-drinks frequently leads to fighting and immorality. The government has attempted to control beer-drinks; but with the disappearance of fighting, they have become one of the few amusements of the people who see no reason for giving them up.[74]

Moreover, the Transkei is over-stocked. There is 1.64 head of stock to each morgen of grazing land, although experts believe that each head needs some six acres.[75] As a result of this cattle economy, much land must be used for grazing purposes which might otherwise be turned into cultivation, while cattle tracks and the eating of shrubbery by cattle produce erosion which is rapidly causing much of the Transkei land to deteriorate.[76] In view of the strong affection of the native for his cattle and of the lobolo system, which places a premium on quantity instead of quality, it will be extremely difficult to supplant cattle economy by intensive cultivation. The difficulty is increased by the fact that when the native acquires a little money at the mines, he finds that it is much more easy and more profitable to invest it in additional cattle than to improve or introduce new methods in agriculture. His women can look

[72] *Proceedings, cited,* 1926, pp. lxv, lxvi. In 1923, a net importation of 146,000 bags was made. *Ibid.,* 1924, p. lv. In 1924, however, the net importation fell to some 55,000 bags (of 200 pounds each).

[73] Report of a committee, *Report of the Proceedings of the Fifth General Missionary Conference of South Africa,* 1921, p. 63.

[74] While a régime of prohibition of European liquors is not applied in the Transkei, natives are so-called prohibited persons who may purchase such liquor only after receiving a permit from a magistrate. Proclamation 254 of 1923. In 1912, the illicit liquor traffic in the Transkei, particularly of brandy, became grave. U. G. 33-1913, p. 17. Conditions are now much improved.

[75] Cf. Vol. I, p. 76.

[76] See the report of the Committee on Soil Erosion, *Proceedings,* 1926, p. 40.

after cattle while he is away at the mines more readily than they can after any ambitious agricultural project. At the most, he stays home only one or two years, after which he returns to the mines, staying six or nine months. Under this system, the native thus acquires more and more cattle, which makes the economic problem more difficult than ever to solve.

It appears that the poverty of the Transkei native is partly due to the exactions of European traders. Many of these traders decline to do a cash business with native customers. In return for some tobacco or mealies the traders exchange goods, but at a higher price than if cash had been paid. Natives have repeatedly brought this matter before the Bunga. In the 1926 session, one Councillor said: "A man wanted to go and pay his taxes, and he threshed some mealies, and sent them to the shop, because he wanted some money for the purpose of paying his taxes. The trader said he would not buy the grain if the man was not buying something from the shop. The man explained that he wanted some money to go and pay his taxes, and the trader then said if that was the case he would not buy the grain. The traders had formed themselves into a ring, and said they would not pay cash for grain." [77]

Some traders have been known to charge one hundred per cent a month interest on sums loaned to natives. While the Usury Law has been extended to the Transkei, it does not apply to amounts under fifty pounds. Moreover, traders have also been repeatedly accused of cheating natives by dishonest weighing, a practice which has now been checked by the extension of the Weights and Measures Act, which provides for the inspection of scales. All these practices operate to discourage native production. Native feeling is so high that in some districts natives have talked of boycotting traders.

Part of these abuses is due to the fact that the government limits trading sites to a distance of five miles from each other. While this limitation is in theory imposed to prevent the entrance of an unduly large number of Europeans into the Transkei, the result has been also to grant the traders admitted—there are now about six hundred and forty in the territory—certain monopolistic privileges. The importance of these privileges is lessened by the willingness of natives to walk five miles from one trader to another. But despite the rule that one trader shall not own more than one station within twenty miles, some traders in the Transkei have, by indirect means, acquired as many as twenty trading posts. Through the I. O. U. system, and cash advances, traders who are also labor recruiters induce many natives to go to the mines who otherwise would prefer to stay at home. Traders pay the government a quit-rent

[77] *Proceedings, cited,* 1926, p. 66.

of only one pound a year, a sum which seems to be inadequate, and which goes into the Union instead of the Transkei funds. But they also pay for certain licenses to the Provincial Government. Some of these abuses could be eliminated by the enactment of truck legislation requiring traders to pay cash, such as has been enacted in the Belgian Congo [78] and elsewhere. The establishment of cooperative societies providing cooperative market facilities would also give the natives an incentive to produce crops for commercial purposes which they do not at the present time have.

The effect on the Transkei native of going to work in the mines is much the same as on any other country native.[79] He contracts disease and becomes familiar with European vice. He loses respect for his elders who remain at home; if he has a family, his children grow up without proper care; and his wife often becomes the prey of the older men staying behind. From the social standpoint, he comes to regard the Transkei, not as a community of which he is a living part, but merely as a resting place where he can spend his savings and engage in dances and beer-drinks until it becomes necessary to go out to the mines again.

This unsettled form of existence indirectly accounts for the fact that population in the Transkei does not appear to be increasing rapidly. While at one time the population doubled itself in twenty-five years, according to the 1921 census the native population in the Transkei increased from 879,-126 in 1911 to 938,990 in 1921—an increase of about seven per cent for ten years—much less than one per cent a year.[80] In four districts, the population showed an actual decrease, while in Tsolo the population increased only 2.59 per cent over 1911, due largely to recurrent drought which "led to the impoverishment of the Natives and to unprecedented numbers leaving the Territories in search of work. As a result of loss of cattle, young children in thousands of kraals were left without milk." The Census believes that "the comparatively small increase in the non-European population" in certain of the Transkei districts has been due to typhus and tuberculosis which is the result of over-crowding and of contact with men from the mines.[81]

Strangely enough, natives in the Transkei have realized more acutely the effects of labor emigration than the European magistrates. Motions have frequently been introduced in the Bunga protesting against the recruiting of young boys, and also against the recruiting of boys attending schools. One speaker said that children left their fathers and went to recruiters, who sent them to Johannesburg, because they wanted money.

[78] Cf. Vol. II, p. 521 [79] Cf. Vol. I, p. 48. [80] *Census, cited,* 1921, p. 247.
[81] *Ibid.,* p. 39. In 1918, a hundred thousand Transkei natives died of influenza. *Ibid.,* p. 43.

He had been to the places where those children were sent, and had seen little boys who had been working underground coming out in tears, and they had asked him please to try and get them away.[82]

On the other hand, the administration favors working at the mines not so much out of sympathy with the needs of the mine owners, as in the belief that the economic existence of the Transkei depends upon this source of income. The Chief Magistrate said, in 1923, that he knew that the men did not go to the mines for the love of the thing, but because they were forced by economic circumstances to go and earn money.

He took it that those interested in these territories and the country generally would use their influence to get native laborers to go forward, and to get them to continue to go forward. He was told that in one district there was a trader with seven hundred native names on his book, and that none of those showed any desire to go forward. If they did not want to go forward now, when they did want to go they might find there was no room, "because their places would be taken by Portuguese natives. . . ." It was perfectly clear that a continual supply of labor to the mines was of vital importance to these territories, and it was their business, and the business of their people to take advantage of the opportunities by constantly sending up people who were "not in a position to pay their way, pay their taxes and debts." [83] A committee appointed to consider the best methods of augmenting the supply of native mine labor, at the motion of a magistrate, recommended that every trader should be granted a recruiting license, that recruiters should have the right to proceed in a criminal action against laborers having received an advance who failed to appear for service; that headmen be authorized to collect "voluntary" laborers and convey them to the local representative of the Native Labour Recruiting Corporation, in return for a fee of five shillings for each laborer; and that advances under certain circumstances be increased from two to five pounds.[84] The Official Conference also supported this report, which was sent by the Secretary of Native Affairs to the Director of Native Labor.[85] If actually enforced, these provisions would come close to installing an indirect system of forced labor in the Transkei.

At the next session, a councillor moved that the period of service at the mines be reduced from nine to six months. But the chairman stopped discussion, saying that this length of time was a vital necessity.[86]

It thus appears that the Transkei Administration exerts some form of persuasion to get the natives to go to the mines. As long as natives

[82] *Proceedings, cited,* 1922, p. 78. Cf. also *Ibid.,* 1921, p. 158.
[83] *Ibid.,* 1923, p. 47.
[84] *Ibid.,* 1923, pp. 27-29.
[85] *Ibid.,* 1924, p. xxix.
[86] *Ibid.,* 1924, p. 104.

spend half their lives away from home, the improvement of native agriculture and native society in the Transkei will be extremely difficult to bring about. But if this migration to the mines should be discontinued, natives at home would be unable to pay their taxes and to buy food.

Consequently, the Transkei appears to be held in a vise from which it probably will extricate itself only when the Union land problem is solved.

CHAPTER 7

NATIVE ADMINISTRATION

1. *The Judicial System*

ONLY a word need be said about the administration of native areas apart from the Transkei. In the Cape proper administration is in the hands of magistrates who within their districts also look after the European population. A Chief Native Commissioner at King William's Town supervises administration in the native districts west of the Kei. In the Transvaal, magistrates responsible to the Union Department of Justice have controlled native affairs as ex-officio native commissioners, assisted, in more densely populated areas, by native sub-commissioners who are officers of the Native Affairs Department. In the Orange Free State, the same system has prevailed, but in the Harrismith and Th'aba 'Nchu districts, magistrates have been assisted by "supervisors" who are officers of the Native Affairs Department. In Natal, a chief native commissioner, representing the Native Affairs Department, supervises native administration in the districts, assisted by location inspectors. Thus until recently part of the officials in charge of administration—the magistrates—were responsible to the Department of Justice. While it usually consulted the Department of Native Affairs in appointing magistrates to native districts, the system was not entirely satisfactory, and under the 1927 Act to provide for the Management of Native Affairs, all such officials are to be placed under the Department of Native Affairs. This department is a branch of the Union Government, having a permanent Secretary of Native Affairs. It is responsible to the Minister of Native Affairs who is also the Prime Minister. A Permanent Native Affairs Commission, of which the Prime Minister is chairman, and which contains at least three permanent members—all Europeans—advises on matters of native policy.[1]

Throughout the Union, native headmen are employed by the government at varying salaries, the rates of which have been criticized as inadequate. While in the Cape and the Orange Free State all judicial power is exercised by European magistrates, in the Transvaal and in Natal, the jurisdiction of native chiefs has been recognized. In some areas, such

[1] Cf. Vol. I, p. 190.

as the Glen Grey District, the Transkei, and Pondoland, native councils have been established.[2] In other districts, such as Eastern Pondoland, and in the Transvaal, native trust funds, derived from voluntary levies and employed for the benefit of native communities, have been set up.

In Natal, native administration has been controlled by a Native Code—probably the only civil code of its kind on the continent of Africa.[3] This code defines the powers and duties of the supreme chief (the governor), the chiefs of tribes, district headmen and kraal heads. It also defines the personal status of natives, *i.e.* kraal heads or subjects of kraal heads. It further defines rules governing inheritance and succession, marriage, guardianship, divorce, and "Lobolo"—a kind of dowry, which is limited to twenty head of cattle for chiefs and ten head for ordinary natives. Medicine men and women are allowed to practice for gain if licensed. The code also contains certain provisions in regard to land tenture, native courts, and procedure.[4] The amazing feature of this code is that it can be amended only by act of parliament, a procedure which has proven inflexible. Changes in the code to fit new native needs have been made, when made at all, only with the greatest difficulty.[5] Cases under the code are finally decided by a Native High Court, now composed of four European judges.[6]

2. *Compulsory Labor in Natal*

Natal for a time also followed the policy of compulsory labor for public works. The governor, as the supreme chief, had power under the code[7] to call upon all natives to supply labor for public works or for the general needs of the colony, without limitation of time or of number.

[2] Discussed in detail in Ch. 6.
[3] Cf. Vol. I, p. 96.
[4] *Statutes of Natal,* Vol. II.
[5] See para. 63 of the *Report of the Natal Native Affairs Commission,* Cd. 3889, The Natal Native Code could only be amended by the legislature which did not know native conditions and which either refused to enact measures which natives desired or imposed measures to which they were opposed. *Report of the Natal Native Affairs Commission, cited,* Dc. 3889, p. 20. Commenting on the inaction the Natal Native Affairs Commission declared, "The total disregard of native feelings and morals for so long cannot but excite surprise and supplies a forcible illustration of the wisdom of more sympathetic treatment, and the necessity for some means, more prompt than ordinary Parliamentary action, to grant relief or change of custom."

In Natal educated natives may secure letters of exemption from the operation of this code and come under European laws. The Natal Native Affairs Commission advocated the principle as favorable to the individual and "as one of the most powerful political devices for the disintegration of tribalism." *Ibid.,* p. 21. For the same principle in the French colonies, Cf. Vol. I, p. 946.
[6] *Report of the Decisions of the Native High Court,* Vol. XXVI.
[7] Art. 36, Natal Native Code.

The workings of this labor system were described by the Natal Native Affairs Commission as follows:

"Chiefs are requisitioned to supply men according to the size of their tribes, and the number in service averages about 3,000 on an engagement of six month's duration. This apparently large number is employed in the maintenance of nearly 6,000 miles of roads in Natal and Zululand, and constitutes about fifteen per cent of the total number of young men in Natal Locations alone. They receive an ample ration of maize meal, are provided with tents and huts, and receive a wage of twenty shillings a month. There is no proper system of rotation or limitation of calls, much being left in the way of selection to the whim, caprice, and partiality of the Chief and his indunas, who are known to call out the same men over and over again, while favorites, and those who bribe them (often substantially) escape altogether. . . ."

The commission recommended that no one should be liable to be called out for more than two or three periods of service and those who could prove private service should be exempted. Despite the fact that the laborers were well-treated and received a high wage, the work was "intensely unpopular, mainly because of its compulsory nature." [8]

Following the rebellion of 1906, the system was abolished. South Africa is one of the few territories on the continent which does not now employ compulsory means in securing labor for public works.

3. *Taxation*

Until 1925, taxation varied with each province, ranging from twelve shillings in the Cape to two pounds in the Transvaal.[9] With the exception of taxes from the Transkei and a few other similar areas, this money went into General Union Revenue, from which the native got very little direct return. These taxes were also criticized as being excessive. The 1921 Missionary Conference called the attention of the Government to "the serious and growing inequality of taxation levied upon the Native people, chiefly through the unsympathetic administration of Provincial and Municipal Councils." It continued:

"This Conference is firmly convinced that these grave inequalities of taxation constitute a serious and unjust burden upon the Native people of the more heavily taxed districts, many of whom are living within the

[8] Cd. 3889, *cited,* p. 39.

[9] In the Cape, the natives were liable to a ten-shilling hut tax, and a two-shilling Divisional Council Rate. In Natal, they were liable to a hut tax of fourteen shillings, and a dipping rate of five shillings. In the Transvaal, the tax was a poll tax of two pounds, reduced to one pound if the native worked for a European employer for ninety days. In the Free State, the tax was one pound.

actual border line of absolute poverty, and that they tend only to create a sense of injustice, dissatisfaction and discontent, which increases the growing difficulties of Native Administration." [10]

As this discussion shows, native policy in the Union has varied according to the province concerned. During the last ten years the South African government has therefore attempted to introduce new legislation which will bring about uniformity in native policy and will also ameliorate the conditions under which the natives in the rural areas, particularly, live.

4. *The Native Affairs Act, 1920*

Following the industrial troubles of 1919, a step in thi direction was taken by the passage of the Native Affairs Act, 1920. Inspired by the example of the Transkei, this act provides for the establishment of local councils of not more than nine members and with an official chairman in areas set aside by parliament. These councils may provide for such subjects as roads, water supply, the destruction of noxious weeds, hospitals, education, and afforestation. They may acquire land and levy a rate not exceeding one pound (deducting the regular tax.) The government may establish a General Council over a number of areas having the same powers as the local councils. Likewise the government may call native conferences at Pretoria and elsewhere where native questions may be discussed. These conferences are now annually held. Not the least important provision of the act creates a Permanent Native Affairs Commission, of which the Minister of Native Affairs (the Prime Minister) is chairman, together with three members appointed by him. In practice, the Prime Minister never attends the meetings. The duty of this Commission is to consider any matter relating to the general conduct of native affairs. In case the Commission and the Minister disagree, the papers are placed before parliament.[11]

5. *Native Taxation and Development Act, 1925*

A second step of great importance was taken in the passage of the Native Taxation and Development Act in 1925 [12] which provides that every adult native male in the Union shall pay a general tax of one pound. Moreover, a local tax of ten shillings per hut shall be paid. The latter

[10] *Proceedings, cited,* p. 19.
[11] *Statutes,* 1920, p. 84.
[12] *Statutes,* 1925, p. 716. This statute transfers native taxation from the provinces to the Union Government.

tax is not paid, however, by the holder of a quit-rent title.[13] This local tax and quit-rents shall be paid to native councils where they exist. Thus by means of a local rate, native councils will have a system of estimates similar to that found in the Transkei. Moreover, one fifth of the general tax paid into government funds will go into a Native Development Account.[14]

6. *The Act for the Better Control of Native Affairs,* 1927

Apparently in an effort to consolidate and make uniform native policy throughout the Union, parliament enacted in 1927 an act to provide for the Better Control and Management of Native Affairs. It declares that the Governor-General shall be the supreme chief of all natives in the provinces of Natal, Transvaal and Orange Free State. He may appoint native commissioners for any area, who shall be under the jurisdiction of the Minister of Native Affairs. A native tribe shall not be responsible for the personal obligations of its chief, nor is it bound by any contract entered into by a chief. No legal proceedings in regard to land may be instituted against a chief. The Governor-General may order the removal of any tribe from any place within the Union, but in case the tribe objects, no such order shall be given unless it is approved by a resolution of parliament. The act authorizes the government to establish a system of land registration for natives.

The Governor-General may impose judicial power upon European native commissioners. These courts shall apply native law, except in so far as it is opposed to the principles of public policy or natural justice. But the custom of lobolo or bogadi shall not be regarded as repugnant to such principles. Courts of appeal to hear cases from the courts of native commissioners shall be established. Lawyers may practice in the courts of the native commissioner and in the native appeal courts. The government may authorize any native chief to hear civil cases between natives, subject to appeal to the native commissioner. It may also grant to any chief jurisdiction in respect of offenses punishable under native law and custom. Such chiefs may impose a fine not exceeding two head of cattle or five pounds.

The Act lays down certain rules in regard to marriage and succession. No male native may, during the existence of any customary union between

[13] Natives paying income taxes of one pound are also exempt from the operation of this Act.

[14] Together with any local tax not falling under the jurisdiction of a local council. The latter must be expended in the area whence it came. When a native tribe or community voluntarily makes application for the levy of a special rate for the benefit of the tribe, the Minister may authorize the rate to be levied.

him and any woman, contract a marriage unless he has first declared on oath the name of such woman, the children of such a union, and the property, if any, allotted to the woman under native custom. No clergyman or marriage officer may solemnize the marriage of a native unless he has made such a declaration. All movable property belonging to a native and alloted by him to any woman with whom he has lived in a customary union shall upon his death be administered under native law and custom. Any dispute arising out of the administration of any estate shall be settled by the district commissioner or magistrate. But native law shall not apply to property validly bequeathed by will. The Governor-General may make rules virtually codifying or changing native law in regard to the question of succession.

This Act gives the Governor-General power to amend the Natal Native Code and thus remedies the defect which arose out of the fact that amendments could be made only by the Union Parliament. The Governor-General is given power to amend or repeal legislation in the Native Areas and make new laws applicable to such areas. But no such proclamation may be made unless a draft of its provisions shall have been published in the Gazette at least one month previously. Every such proclamation must be laid upon the tables of both houses of parliament within fourteen days after promulgation, or after the commencement of its session. If the Native Affairs Commission dissents from any provision in a proclamation, the reasons for the dissent are laid with the proclamation before parliament. Thus it seems as if the government intends to take the native areas out of the parliamentary orbit, and place them under the régime of proclamation, which may be based on resolutions of the Native Council.

The Governor-General may make regulations with reference to the prevention of misconduct and disorder in native locations. He may define pass areas and prescribe regulations for the control of the movement of natives. Under this provision, the Governor-General may abolish existing pass legislation and introduce a new system if he desires. "Any person who utters any words or does any other act or thing whatever with intent to promote any feeling of hostility between Natives and Europeans shall be guilty of an offense and liable on conviction to imprisonment for a period not exceeding one year or to a fine of one hundred pounds, or both."

The Governor-General may grant to any native a letter of exemption exempting the recipient from laws specially affecting natives.[15]

[15] This act is taken from the *Union Gazette Extraordinary,* Cape Town, July 5, 1927, pp. xxxv-xlvi.

As a result of this Act the Department of Native Affairs may centralize native policy throughout the Union. While the Act weakens tribal authority in regard to the obligations of the chief, it envisages the establishment of chiefs' courts. But the extent to which the government actually utilizes the tribal system in administration cannot be determined until after the regulations authorized by the Act are published. Probably the most important achievement of the Act is to take the native areas away from the jurisdiction of the Union Parliament—a body where European interests prevail—and place them under the Department of Native Affairs.

CHAPTER 8

NATIVE DISCONTENT

LARGELY because of missionary enterprise, supplemented by State grants-in-aid, native education in South Africa has been probably more extensive than in any other territory of Africa except Basutoland and Sierra Leone. About one-fourth of the native population of school age attends school.

1. *Native Education*

In the Union, the number of State and State-aided schools for non-Europeans increased from 1042 in 1895 to 3288 in 1922, while the number of non-European scholars during the same period increased from 71,057 to 251,872.[1] The fruits of this education are seen in the fact that in 1921 there were 455,398 natives who could read and write. Of this number, 211,765 were women. Twenty per cent of the educational funds in the Cape Province, seventeen per cent in Natal, three per cent in the Transvaal, and one per cent in the Orange Free State go to native education; the remainder is spent on Europeans. Thus the Cape Province and Natal have been most liberal to the natives.[2] For the most part, native schools are conducted by missionary societies, subject to the control of the provinces.

Lovedale, at Alice, Cape Colony, is probably the best known and most effective mission school in the Union. The Cowley Fathers at St. Cuthbert's Mission in the Transkei and the Amanzimtoti Institute in Natal have also put forth important educational efforts.[3] The South African

[1] *Year Book, cited,* p. 219. There were in 1922 331,081 European children in school, or practically all of the European school population.

[2] Cf. the following table:

Province	Total Native Expenditure	Expenditure Per Scholar
Cape of Good Hope	£416,213	£2.11s.11d
Natal	86,909	2. 5s.10d
Transvaal	43,830	1. 7s.10d
Orange Free State	5,290	6s.

Ibid., p. 231.

[3] The details of the South African educational system can be best found in C. T. Loram, *The Education of the South African Native,* London, 1917. Chapters III and IX deal with the results of native education. On this subject, see also a study by Rev. A. E. LeRoy, "Does it Pay to Educate the Zulu?" reprinted from the *South African Journal of Science,* January-February, 1919; E. G. Malherbe, Education in South Africa, 1652-1922, Cape Town, 1925; and T. J. Jones, *Education in Africa,* Phelps-Stokes Fund, New York, 1920, Ch. IX.

Native College is an institution supported partly by the government in the same manner as it supports many other universities, and partly by missionary organizations and the Transkei Council. This college prepares natives for the B. A. examination of the University of South Africa exactly as other colleges prepare European students. It gives more advanced work than any other native institution in Africa. The first students from the Native College received their B.A. degrees in 1924.[4] While the Union Government has general supervision of native affairs, each province has controlled native education. Owing to the lack of coordination due to the divorce of native from educational policy, plans for transferring control of native education to the Union Government have been frequently recommended.[5] A step in this direction was taken by acts of 1922 and 1925[6] under which the Union Government makes an annual grant of 340,000 pounds to a native development account which represents the amount previously expended by the provinces.[7] To this sum is added one-fifth of the native tax, which amounts to about one hundred thousand pounds. By means of these acts the Union Government secures the right of inspection of provincial educational activities for natives, which may lead eventually to the assumption of these duties by the Union Government.

The process of educating and evangelizing the South African native has inevitably produced discontent. Having received an industrial education, a native finds that his skill is worthless, owing to the color bar. Having received an agricultural education, he finds that it is impossible to become an enterprising farmer because white men virtually prohibit him from acquiring land. Moreover, the Christian religion teaches him that all men, regardless of blood, are brothers in the eyes of God—a teaching which lends a divine sanction to his criticism of what he calls European hypocrisy. The more widespread education becomes, the greater becomes the black man's antagonism to what he believes to be an economic and political system designed to maintain him in serfdom.

Moreover, native schools have brought into existence native school teachers to the number of more than six thousand in South Africa, who are intellectual and, at times, political leaders of the native population. The

[4] Cf. *Calendar, South African Native College,* 1925, pp. 30, ff.

[5] Some of these are summarized in Malherbe, *cited,* Ch. XXI. In 1921, the Native Affairs Commission recommended that the Union Government take over native education in view of existing anomalies and inadequate financial provision in the provincial system. *Report, cited,* U. G. 15-1922, Ch. II. This report stated that policies in the provinces differed as to segregation of "colored" from native children, courses of instruction, standards for native teachers, and government as compared to mission schools.

[6] *Financial Relations Act, 1925.*

[7] Cf. Vol. I, p. 7.

efforts of European missionary societies have also produced a native clergy. In fact, because of the color bar and the absence of land, these are virtually the only professions into which educated natives can enter.[8] Christian missions have been at work among the native population for several hundred years. In 1921, the census reported that 1,605,356 natives out of a total of 4,697,813 were Christians,[9] or three hundred and forty-two per thousand, a rate which is higher than that in any other place in continental Africa. The number of native Christians increased by 550,000 between 1911 and 1921. The largest denomination is the Methodist, consisting of nearly 210,000 members; the second is the Anglican, numbering about 119,000. During the last ten years, the Zionists and the Roman Catholics have registered the largest gains among the Bantu population. There are about forty thousand native Roman Catholics.

It has been the aim of most Protestant missionary bodies to build up a self-supporting and self-directing native church. One of the most successful efforts in this respect is the Bantu Presbyterian Church of South Africa, which embraces 1830 ministers and more than twenty-three thousand members.[10] It is governed by a native general assembly which now has a native moderator. Over this and other experiments, European missionaries still maintain some form of supervision.

Nevertheless, many natives, feeling that they are able to stand entirely alone, have seceded from established churches to found separatist movements. At the present time, there are more than a hundred independent native churches in South Africa[11] having an enrollment, apparently, of about thirty-seven thousand. In many cases, these secessions have been caused by attempts of European missionaries to discipline native ministers for immorality or the misuse of funds. In other cases, they have been caused merely by personal pique or by a "vision." The first native secession, from the Wesleyan Church in 1884, led to the establishment of the Tembu "Catholic" Church. An Ethiopian Church also exists, together with several independent Anglican organizations.

2. *The Israelite Movement*

Many independent religious sects interpret the Old Testament to mean that they, the natives, are the chosen people and that the Europeans are the

[8] There are, however, a few native lawyers and doctors. Most of the latter have Edinburgh degrees. One native doctor at Bloemfontein is said to make twenty-five hundred pounds a year, mostly from white patients.

[9] *Census*, 1921, *cited*, p. 241.

[10] *Proceedings of the Third General Assembly of the Bantu Presbyterian Church of South Africa*, 1925, p. 57.

[11] *Year Book, cited*, p. 867; *Census*, 1921, *cited*, p. 241.

Philistines whom they must overcome. Consequently, these sects frequently tend to become seditious, as the case of the so-called Israelite movement showed. In 1918, a native by the name of Enoch Mgijima had a vision in which he witnessed a battle where a baboon destroyed two white governments which had been fighting each other. He interpreted this dream to mean that the natives, symbolized by the baboon, would come in and destroy both British and Dutch. Being excommunicated from his church for preaching such an interpretation, Enoch founded a tabernacle of his own at the Bulhoek location (near Queenstown, Cape Colony). For some reason, the government recognized Enoch as a sort of local headman. For several years, great crowds of white-robed Israelites would come to Bulhoek to celebrate the peace of the Passover. But they soon came into conflict with local natives who complained that their land was being injured by the interlopers. Enoch, moreover, ignored government regulations in regard to the erection of buildings. When the government finally served a summons on Enoch to obey the law, he defied the order and carried on a correspondence with other leaders, one of whom wrote, "The lads of Gogi are terror stricken. . . . Oh, these heathen, we have already overpowered them. They are extremely afraid of us. Father proclaim this extensively among the dissenters." The natives also defied the Inspector and nearly a hundred South African police who attempted to enter the village but who, under strict orders not to fire, were obliged to retreat three and a half miles—another proof to the natives of Enoch's supernatural power. Despite the outbreak of typhus in the village, the government did not act for another two months. Meanwhile Enoch preached that the hour of the black man was approaching, and that the bullets of the police would turn to water.[12] Drilling and arming took place in the Tabernacle; while, infected with the contagion of the movement, a native in the Glen Grey district told the people that since the natives at Bulhoek did not pay taxes nor recognize the authority of the white man, Glen Grey should also become free. The government, believing that the very existence of its authority was at stake, finally marched troops against the Israelites, as a result of which some two hundred natives who offered resistance were killed.

The court, in sentencing the ringleaders to imprisonment for sedition, expressed the opinion that "there was a vacillation, a shirking of responsibility, a desire to shift the responsibility on to the shoulders of somebody else," on the part of government officials who "seem to have forgotten that in dealing with Natives a legacy of sorrow and blood invariably follows

[12] This belief that bullets will turn to water is found in other parts of Africa, Cf. Vol. I, p. 450.

the footsteps of misplaced clemency. The retreat of the police was a disastrous occurrence."[13]

Following the Bulhoek trouble, the government appointed a commission to study the Israelite movement and the whole question of independent native churches. In its report, the commission stated that "there is a growth of race consciousness with its natural outcome of social and political aspirations among the Natives of the Union." But it did not believe that "expressions of the growth of this feeling" could be checked; and considered that "the wisest course of the administration is to guide these expressions into safe channels."[14] None of the native churches has a "definite anti-white program." Nevertheless these independent churches are usually founded after unpleasant incidents with European missionaries, and they attract disaffected natives. It is almost certain that anti-European natives will, "if they belong to any religious organization at all be members of a separatist church." The commission did not believe, however, that these organizations should be interfered with by repressive legislation. But as soon as the movement becomes political, tending to the subversion of public order, the government should suppress it. It appears also that the religious following of Enoch was increased by lack of faith in the government's goodwill toward natives.[15]

3. *The African National Congress*

Of more practical importance have been the native political organizations, the chief of which is the African National Congress. Established in 1912, this organization, which has five provincial branches,[16] attempts to unite all native organizations into a single "medium of expression of representative opinion." According to its constitution, its object is also to "formulate a standard policy on Native Affairs for the benefit and guidance of the Union Government and Parliament . . . to educate the

[13] The court quoted Livingstone, "the greatest friend to the Native who ever lived," who once is said to have stated that "no man should ever threaten a Native with a gun unless he intends to use it. . . ." Judgment, reprinted in *Report of Native Churches Commission,* U. G. 39-1925.

[14] *Ibid.,* p. 18.

[15] *Report of the Native Affairs Commission,* 1921, U. G. 15-1922, p. 11. The Native Affairs Commission of 1905 also refrained from advising any measure of legislative repression of such churches; and "it was not disposed to condemn the aspiration after religious independence." But it believed that in the case of a subject race such an aspiration, misdirected by ignorant and misguided leadership, might be fraught with the seeds of racial mistrust and discontent." It criticized the action of the African Methodist Episcopal Church, an American negro church, with which many secessionist bodies affiliated, on the ground that in its earlier stages it showed a lamentable want of discrimination in ordaining unsuitable men. Cd. 2399, *cited,* p. 47.

[16] There are two branches in Cape Province.

Bantu people on their rights, duties, and obligations to the State; to encourage mutual understanding and to bring together into common action as one political people all tribes and clans of various tribes or races and by means of combined effort and united political organization to defend their freedom, rights, and privileges; to agitate and advocate by just means for the removal of the 'Color Bar' in political, educational and industrial fields and for equitable representation of Natives in Parliament. . . ."

The National Congress is composed of hereditary chiefs as well as official delegates. Paramount chiefs are honorary vice-presidents; and no decision of any branch in direct conflict with the expressed desires of the majority of the chiefs can be taken.[17]

The Congress sent a delegation to London to protest against the passage of the 1913 Land Act, but it was only there a short time before the outbreak of War. When this event occurred, the Congress at a special meeting in Bloemfontein decided to suspend agitation and ordered the delegation to return. But immediately following the War, the Congress renewed its agitation. The Congress likewise has made repeated representations to the Union Government in regard to color bar legislation and other bills affecting native policy.

None of the delegations sent to London has, however, been successful. The government has always informed them that the government of South Africa is a Dominion and hence fully self-governing in internal affairs. Some members of the Congress feel that South Africa is hiding back of the British Empire and that the natives could, therefore, plead their cause more successfully before the bar of world opinion if South Africa were a republic. This feeling, together with the belief that the British Government has not kept the pledge of racial equality made by Queen Victoria, led members of the congress to suggest that the natives boycott the proposed visit of the Prince of Wales in 1924. Natives frequently urge that the native question be placed before the League of Nations—a fact which may explain the opposition of many South African Nationalists to the League.[18]

4. *The Bantu Union*

In the Cape Province, another political organization exists, called the Bantu Union. In 1919, it held a convention at Queenstown where it discussed the advisability of sending a native delegation to the Paris Peace Conference. In 1920, it submitted a Grievances Memorial to the Prime

[17] Articles 19-20, Constitution. Representatives of Basutoland and the other South Africa Protectorates also form part of the Congress.

[18] Cf. *House of Assembly Debates,* May, 1925, col. 2893.

Minister. Its spokesman also strongly criticized the European attitude toward the native at the time of Prime Minister Hertzog's visit to Queenstown in September, 1925. Instead of the slogan of "White Africa," the Bantu Union believes in "Africa for All." [19]

A strong native press is also coming into existence, representing various trends of thought, from the relatively conservative *Umteteli Wa Bantu,* financed by the Chamber of Mines, to the radical *Workers' Herald.* The anti-racial bent of one of the more intelligently edited native papers, *Imvo Zabantsundu Bomzantsi Afrika,* is shown by the following editorial:

"This is certainly the age of white supremacy over all the black communities of the world, not by virtue of any quality of higher moral standard and civilization which the white man, in every part of the globe, arrogates to himself, but because it is the age of the mighty gun power—the demon of white supremacy. Modern democracy . . . is a democracy only of white skin peoples of the world, and its philosophy is that of brazen spoliation and the violation of human rights of all peoples whose color is black. . . . The black peoples wherever they reside, under so-called civilized authority, are not respected in the matter of human rights. . . . There is great unrest in Africa amongst the intelligent black inhabitants through the oppressive laws under which they live. . . . Truly! the white man's religion [Christianity] has failed to interpret to us the meaning of life in the world. . . ." [20]

5. *Military Revolts*

Except for a long series of wars with the settlers, which were, however, terminated by 1900, the native population of South Africa has not as a whole taken up arms against the white man. An exception should be made, however, for the so-called rebellion of 1906 in Natal.[21] It appears that this rebellion was occasioned by the imposition of a poll tax which brought to a head native dissatisfaction with British rule. At this time, the Ethiopian movement was also preaching doctrines which the government, at any rate, regarded as seditious and which incited the natives to revolt.[22]

Following these revolts the Natal government appointed a Commission to study the whole native question; while it appointed a deputation to go to Transkei and study that system of administration with a view to applying it to Natal.[23]

[19] The Bantu Union of the Cape Province, *Proceedings of the Native Convention, 1919.*
[20] Editorial, June 23, 1925.
[21] Cf. W. Bosman, *The Natal Rebellion of 1916,* London, 1907.
[22] Cf. *Correspondence relating to Native Disturbances in Natal.* Cd. 2905 (1906).
[23] Cf. Vol. I, p. 120.

Since then, there has been no organized movement of revolt against the whites in South Africa proper.[24] Natives cannot secure or own arms and ammunition without special license of the government. On the other hand, every citizen of European descent is liable between his seventeenth and sixtieth year to undergo military service. Half of the eligible young men form part of the Active Citizen Force and undergo, for a period of four years, between two and three weeks, continuous military training and several other days of drill scattered throughout the year. The other half are required to enroll as members of rifle associations.[25] In 1922, there were 60,492 Europeans registered for military service. Under this system of compulsory military service for the whites and compulsory disarmament for the blacks, responsible native leaders realize that military revolt would only mean the destruction of the black man by the white man's military power, whether in the form of machine guns or airplane bombs.

6. *Native Strikes*

Within recent years, however, the natives have learned a new method —the industrial strike. In 1913, strikes and riots took place on the Rand as a protest against living conditions on the mines. During the World War, the natives remained remarkably quiet. But as a result of the high cost of living caused by the War, and encouraged by the successful example of European municipal employees, the native municipal employees in Johannesburg in 1919 asked for a 6d increase in their wages. When the authorities declined to grant this request, the natives went on strike. But they were speedily put under arrest and convicted by the Chief Magistrate of Johannesburg who is reported to have instructed them that

> "They would go back to their work as soon as the necessary arrangements could be made. They would be placed under a guard, including a guard of Zulus with assegais, and white men with guns. If they attempted to escape, they would be shot down if necessary, and if they refused to obey any orders which might be given them, they would receive lashes."

This judgment electrified the whole native population of the Rand, which at a series of meetings demanded the release of the strikers and a general increase in wages of a shilling a day. At the intervention of Prime Minister Botha, the men were immediately released, while the government instructed a magistrate to undertake an inquiry into the

[24] The Bondelzwarts rebellion in South-West Africa, which is held by South Africa under mandate, cannot be discussed here, since the writer did not visit South-West Africa. For a critical account of the rebellion, cf. *Report of the Commission to Inquire into the Rebellion of the Bondelzwarts,* U. G. 16-1923.

[25] Defense Act of 1912, *Statutes, cited,* 1912, p. 190.

cause of native unrest. In his report, he declared that there was a lack of confidence among the natives in the government and that they felt that since the Act of Union, legislation had tended to perpetuate their position as the subject race. In his opinion, there could be no real contentment in the country so long as natives were denied the rights of citizenship. Upon his recommendation, the Tranvaal Night Pass Ordinance was suspended in so far as it applied to women, and the one shilling tax on travelling passes was abolished. In the same year, natives at Bloemfontein also asked for an increase of wages to meet the rising cost of living. When the native leader of the strike was arrested on the charge of inciting to public violence, disturbances took place. The indictment was later quashed. Native strikes also broke out at the Natal Collieries, the Messina Mine in the Transvaal, and at the Cape Town Docks. In February, 1920, a native strike, believed to have been partly organized by the Third International, also occurred on the Rand, in which 42,000 laborers for a time stopped work, complaining of low pay and unsatisfactory living conditions. In the riots which took place, the police killed and wounded a number of natives.

In the same year, natives who organized themselves into the Industrial and Commercial Workers Union struck at Port Elizabeth to secure an increase in wages. Masabalala, a leader who addressed a native mass meeting, aroused great enthusiasm, as the result of which someone in the crowd assaulted Dr. Rubusana, another native leader who apparently opposed the strike. As a result of the complaint of Rubusana, the strike leader was arrested and put in jail without a warrant. A native delegation waited on the authorities, and offered to put up security for bail. But the Police Inspector "peremptorily declined to entertain any proposal whatever for the release, on bail, of the prisoner." Regarding this decision as unfair, native feeling became aroused, and natives warned the police that unless the imprisoned leader were released by five o'clock, they would release him by force.

Three thousand natives congregated around the jail, carrying sticks in violation of municipal regulations. The police not only armed themselves but passed out arms and ammunition to civilians, some of whom were ex-soldiers.

Four mounted police attempted to charge the crowd, but "owing to an accident" three of them were unhorsed, which caused one of the police to fire his revolver in the air. The police were no more successful in breaking up the crowd with a fire hose which they proved unable to manipulate. Meanwhile, the natives started to throw stones. Someone—apparently a civilian—now fired two shots, which stampeded the natives, following which a "rapid and sustained fusillade was directed on the re-

treating crowd from the police station." The total casualties were seventy-six.[26] The government immediately appointed a commission which included a prominent colored man, Dr. Abduraham, as a member. This commission reported that the Police Inspector exercised his discretion unwisely in refusing to release the imprisoned leader on bail. If this had been done, no trouble would have occurred. It condemned the behavior of the natives before the jail, but also declared that "all of the firing which took place after the mob broke away was directed against fugitives; that it was unnecessary, indiscriminate, and it was moreover brutal in its callousness, resulting in a terrible toll of killed and wounded without any sufficient reason or justification."

It is to the credit of the Government of South Africa that it should give a commission the liberty to publish such judgment. This policy stands out in marked contrast with the "hush" policy followed in regard to native "revolts" in the Congo, Kenya, and Nigeria.[27]

Inasmuch as desertion is an offense under the Labor and Pass Laws, native strikes are illegal, a fact which enables the government to arrest any strikers it pleases. This may explain why most of the native strikes in the last few years have been accompanied by disorder and bloodshed.

These strikes are also symptoms of a growing sense of grievance and capacity for organization, and of a racial consciousness of the native population. The Native Affairs Department of the government notes "as a remarkable fact how much more clearly and intelligently have been the utterances which have succeeded the War compared with those which preceded it. It is a sign . . . that the race consciousness of the South African Native is steadily growing and that the spread of education is bringing in its train a realization of the disabilities under which the Native races labour, and an ability to formulate schemes for their advancement and emancipation. . . ." [28]

7. *Bantu Communism*

While before the World War, the natives largely formed religious and political organizations, they have now begun not only to strike but also to form industrial organizations based on the syndicalist idea. It appears that this development has had the sympathy if not the active cooperation of the Communist International in Europe and of the Garvey group in America. At the conference of the Third International, the

[26] The quotations are from *Report of the Commission appointed to inquire into the cause of Native Disturbances* at Port Elizabeth, October 23, 1920; cf. also U. G. 34-1922, p. 2.

[27] Cf. index—revolts.

[28] U. G. 34-1922, *cited*, p. 1.

South Africa delegate[29] declared that the whole continent of Africa could be best reached through the native populations of South Africa and Rhodesia.

To start this movement, the South African Communist party addressed eight "lessons" to the Bantu workers, the first of which reads:

"In the days gone by, the Bantu people lived alone upon the land of Africa. The land belonged to them, and they brought forth the fruits of the kindly earth for their common good. And in those days the only Masters were the Kings of the Bantu people. Then came the white masters of the world and took away the land from the Bantu people; so that they served their white masters and toiled for low wages. . . ."

Another read:

"No matter though you are different in color, you are one in kind with the workers of the world. All those who work for wages are becoming one great brotherhood of labor. The workers of the world are uniting to dethrone the masters of the world, that is, the capitalist class. You Bantu people will share in the great deliverance that is bound to come. You Bantu workers must also unite to help in the great deliverance of the people from the masters of the world. In Russia the workers and poor peasant people have united. They are great in number. They have shaken their chains to earth like dew; they have entered into possession of the land and the wonderful machines for making the good things of life. And today they own them in common just as the Bantu owned the land in common in days gone by. The black workers in India are uniting. They are joining hands with the workers of the world. And they call upon you Bantu workers to do the same."[30]

8. *The "I. C. U."*

While the Communist party has apparently disappeared as far as the natives are concerned, its place has been taken by an organization called the Industrial and Commercial Union. Established in 1920, the "I. C. U." now claims to have thirty thousand members. It is controlled by a national council, the secretary of which is a Nyasaland native called Clements Kadalie. Annual conferences are held. The body frankly declines to adhere to any political organization, but states that its sole purpose is the promulgation of the "One Big Union" idea. It is organized into nine different sections, one for each type of workers, such as domestic

[29] According to accounts of the conference, the Communists were surprised to see African masses represented by a white delegate. *Martial Law Inquiry, cited,* p. 26. Apparently the conference did not realize that the European working men in South Africa were much more interested in subjecting black labor through the color bar than were the capitalists.

[30] *Ibid.,* p. 29.

employees. It believes in the communist principle of "from every man according to his abilities, to every man according to his needs."

The preamble of its constitution declares, "Whereas the interests of the workers and those of the employers are opposed to each other, the former living by selling their labor . . . and the latter living by exploiting the labor of the workers, depriving the workers of a part of the product of their labor in the form of profit, no peace can be between the two classes, a struggle must always obtain about the division of the product of human labor."

In addition to an industrial appeal, it makes the appeal of race. Its official organ, the *Workers' Herald,* carries this caption: "Are You a Race Man?" An article declares that "this race of ours is engaged in a great struggle—a violent struggle for industrial emancipation and political freedom." [31] Another issue denounces the policy of a White South Africa as "infamous and unchristianlike." Another says that the "so-called Native Policy [of the Hertzog government] is no other than that of Capitalism, with its greed, robbery and manslaughter of millions of human beings of all races. . . . Let the African Workers be aroused from their slumber of decades. . . . Meetings must be staged all over the country day by day, week by week, and let our rulers tremble at this New Awakening. . . . Workers of Africa, Unite! You have nothing to lose but your chains." [32]

Such expressions would probably be regarded in the United States as seditious. Since Kadalie, the leader of this interesting movement, is not a citizen of South Africa but of Nyasaland, it would appear that originally, before he had acquired prescriptive domicile, the government could have deported him without difficulty. But the Smuts government hesitated to do so apparently out of fear that the Nationalists and Laborites would make political capital out of it in the 1924 elections. Kadalie used his influence in favor of the election of Prime Minister Hertzog [33] which for a time tied the hands of the incoming government. However, due to the growing bitterness of the I. C. U. leader, the government in the spring of 1926 prepared a Sedition and Deportation Bill authorizing the deportation of other "radicals." The administration also forbade Kadalie to go from Johannesburg to Natal for the purpose of holding meetings. But Kadalie flaunted the orders in the government's face, and proceeded to Natal where he was greeted by hundreds of admirers. For some strange reason, probably because of doubts as to the legality of its action, the government at first did not arrest him. This naturally increased Kadalie's self-

[31] *Workers' Herald,* April 2, 1926, p. 7.
[32] Editorial, *ibid.,* July 28, 1926; *ibid.,* June 15, 1926.
[33] See the discussion and correspondence, *House of Assembly Debates,* May 6, 1925, col. 2893.

confidence and popularity. But some weeks later he was arrested for violating the pass law—only to be acquitted by the court.[34]

Whether or not the I. C. U. is suppressed, native labor organization will inevitably increase in strength in view of the industrial conditions under which so many thousand natives live. But so long as natives cannot legally stop work because of pass laws and the penal sanction in labor contracts, strikes will be illegal, and the government will be confronted with the unpleasant if not impossible task of clapping thousands of strikers periodically into jail.[35]

Thus, as a result of political organizations such as the African National Congress and the Bantu Union, the independent churches and the I. C. U., the natives are organizing a resistance to the white man. For many years, however, tribal and personal differences will keep them from establishing a united front.[36] Their leaders, moreover, are too wise to think of starting an armed revolt. But by organizing movements for industrial passive resistance and by promoting a series of strikes tying up the mining and manufacturing industries, these native organizations may eventually make the position of the white man in South Africa as untenable as would a successful native war. At any rate, the government and public opinion are coming to realize the seriousness of the situation and the necessity of taking steps which will remove the causes of such a conflict. The measures, framed with this purpose, will be discussed in the next chapter.

[34] *Workers' Herald,* October 14, 1926.

[35] The "Better Control and Management of Native Affairs Bill" introduced into parliament in 1927, authorizes the government to prohibit anti-European agitation. Cf. Vol. I, p. 116.

[36] A rival I.C.U. is already in existence. For the difficulties of controlling the branch organizations of the "legitimate" I.C.U., see the Report of the General Executive Council, *Official Report of Proceedings,* Third Annual Conference, 1923, p. 24.

CHAPTER 9

THE HERTZOG NATIVE POLICY

THERE is a strong body of latent opinion among the white population of South Africa today which still believes in the policy of Repression: that the white man can indefinitely rule the country without regard for the interests or feelings of the black. While this feeling may be strong enough to defeat reforms, there are very few of the intellectual and political leaders of the country who believe that the present state of affairs can exist indefinitely, or who believe that the policy of Repression will, in the long run, work to the interests of either race.

Following the establishment of the Union in 1910, so many more immediate problems presented themselves that the government postponed for the time being any consideration of a comprehensive native policy in favor of the status quo. The World War, which led South Africa into a campaign for the acquisition of German Southwest Africa, and which led also to the despatch of troops to German East Africa and elsewhere, postponed discussion of the native question four years more. Between 1910 and 1925 the native policy of the South African Government was therefore one of drift, or at least of piece-meal legislation.

1. *The Cape Policy*

Meanwhile, however, three different lines of policy were being discussed, for the most part outside of political circles. Practically all native leaders and many European residents of the Cape province supported what is called the Cape policy, based on Cecil Rhodes's dictum of "equal rights for all civilized men south of the Zambesi." Some of them interpreted this to mean that no distinction should be made between white and black merely upon the basis of race and that both should travel the same political, economic, and social path. Apparently as a result of this policy, the Cape has been more liberal than any other province in the amount of land which it has allowed the native to occupy, and in the matter of franchise, of the color bar, and of native education. As we have seen, a native in the Cape may vote upon the same conditions as a European,—namely, he must be able to write his own name and either occupy property of the value of seventy-five pounds or have an annual wage of fifty pounds.[1]

[1] Theoretically natives in Natal can acquire franchise rights by fulfilling certain conditions of literacy, periods of residence, recommendations of Europeans, etc. But so far it seems that only two natives have been given the right of franchise.

While the Act of Union prohibits a native from sitting in the Union Parliament, native and colored voters have elected colored members, such as Dr. Abdurahman and Dr. Rubusana, to the Cape Provincial Council. As a result of this franchise it is estimated that the native and colored votes hold the balance of power in twelve divisions of Cape Province, such as Victoria East, Fort Beaufort, Aliwal North, and Tembuland. The possession of this franchise has been of more than political importance inasmuch as the courts have held that restrictive legislation such as the Land Law does not apply to natives having the vote.

Once the arguments in favor of the native franchise in the Cape are accepted, it follows that the franchise should be extended to the other provinces and that the natives should be represented in parliament. While the native leaders would like to see this extension and while a few Europeans argue in favor of the theory, the vast majority of Europeans in South Africa are against the principle altogether. Opponents of the Cape franchise state that it is a matter only of a few years before several hundred thousand natives will be qualified to vote.[1a] The native vote, concentrated in the Cape, is now 14,182 out of a total European vote which numbers 156,000. The number of voters in the Cape has within the last fifteen years increased 113.8 per cent in comparison to a thirty per cent increase in the number of European voters. If the franchise is open to natives upon the same basis as whites, they fear that the natives will soon control the government. The Native Affairs Commission, in 1905 said, "Under such circumstances the voting of the future may proceed upon race lines and no one acquainted with the conditions of life in South Africa will hesitate to say that a conflict would then arise fatal to the good relations which have upon the whole hitherto existed between white and black in this country. . . ."

The Commission arrived at the conclusion that the "possession of the franchise by the Natives under the system existing in the Cape Colony, which permits it being used in a spirit of rivalry with and antagonism to the European electorate, which makes the organised Native vote the arbiter in any acute electoral struggle between political parties, and which as the Native voters increase numerically will enable them to out-vote the Europeans in certain parts of the country, is sure to create an intolerable situation and is an unwise and dangerous thing." [2]

The fears that the whites will be swamped by a black electorate in the near future are no doubt exaggerated. But eventually it would

[1a] Cf. Vol. I, p. 138.

[2] *Report of the South African Native Affairs Commission,* Cd. 2399 (1905), p. 68.

seem inevitable that under this system black voters should outnumber the whites. Even if by an impossible transformation of human nature, the European population of South Africa should peacefully submit to being ruled by a black parliament and ministry, there are few who believe that any group of Africans, however great their individual attainments might be, could possibly assume the responsibilities which European forms of government exact. It appears that the Cape policy, following the French theory of assimilation [3] is founded on the belief that the black is a potential white man and may become so through a few years of literary education. But past experience seems to show that whatever the achievements of native individuals may be, they form part of a group from which they do not escape (without injury to themselves) simply by the acquisition of a literary education. While they may become civilized their group remains uncivilized. The opponents of the Cape theory assert that the welfare of the natives as a whole can best be promoted not by a policy of assimilation of the educated native to the white group, but by the elevation and natural development of the native group. The fact that one group is at a more primitive stage of social evolution than the other group justifies the adoption of policies suited to the needs of each. To determine, therefore, whether a policy works for or against the interests of the native population, one must not look to the mere fact of discrimination but to the question whether the discriminatory policy really works to the advantage of the group to which it is applied.

2. *Compulsory Segregation*

On the other hand, some South Africans have proposed an out and out policy of compulsory racial segregation. They believe that the fruits of racial inter-penetration in South Africa have been bitter—that native life under European employers has been thoroughly demoralizing and that European society, based on primitive labor, is a "slave state" composed of a White Aristocracy superimposed upon a Black Proletariat—a system which has produced the Poor White, on the one hand,[4] and the Mulatto or Colored person, on the other. They believe that a white civilization living in intimate dependence upon a primitive people of a different type of standards, outnumbering the whites four to one, is in danger of losing its economic, moral, and cultural standards,[5] and that if

[3] Cf. Vol. II, p. 77.

[4] E. Stubbs, *Tightening Coils, An Essay on Segregation,* Pretoria, 1925, p. 3.

[5] The Commission of Inquiry into the Assaults on Women declared, "When the disgusting sexual practices in which a large number of natives indulge from early youth are borne in mind, the danger of entrusting girl children to male Natives is obvious. The existence of these practices is unfortunately not so

universal intermarriage does not take place, a result which they would deplore, racial animosity and illicit miscegenation will inevitably develop. Thus the Segregationists favor the creation of separate areas in South Africa for the exclusive occupation respectively of blacks and whites, each maintained on a basis of an all-black or an all-white economy. The Black Area, under this theory, would eventually become economically and politically independent of the White Areas. Neither race would be obstructed in its group development by the other.

One writer, Mr. M. G. Evans, advocated some fifteen years ago a policy which "must be the separation of the races as far as possible, our aim being to prevent race deterioration, to preserve race integrity, and to give to both opportunity to build up and develop their race life." [6]

Mr. Peter Nielson, in an interesting little book,[7] comes to the same conclusion. After analyzing the mental qualities of the Bantu he says, "The evidence before us leads inevitably to the conclusion that there is nothing in the mental constitution, or in the moral nature of the South African Native, to warrant his relegation to a place of inferiority in the land of his birth. . . ." Nevertheless racial animosity exists not because of alleged mental disparity but because of the "unalterable physical difference between the two races." Consequently "territorial separation of the home-life of the two races is the only way by which parallel development can take place. . . . The hardships and disabilities under which the educated Native suffers in the Northern Provinces of the Union and in Rhodesia are patent and serious. It is hard that a civilized man may not travel in his own country without a 'certificate'; it is hard that he must do only rough or menial, but always ill-paid work when he is capable of doing skilled and well-paid labor; it is hard that when he is allowed to do skilled labor he cannot claim the wages of a skilled laborer; it is hard to be . . . treated always as an inferior and an alien in the land of his fathers; all this is hard, but—'tis the law, written and unwritten, made and enforced by the dominant race, and there is no reason to think it will be made less hard as the pressure of black competition increases.

"But if good and ample land can be set aside in the various territories of spacious South Africa in which the Natives can live and move without let or hindrance; in which they can do what work they like for

widely known among white people as it should be; and it would be well if all mothers, in areas where Natives are employed, made themselves fully informed in regard to them. Boys, too, may be easily contaminated by the conversation and practices of many of these young Natives." *Report, cited,* sec. 121.

[6] *Black and White in South East Africa,* London, pp. 310 ff.

[7] *The Black Man's Place in South Africa,* Cape Town, 1922.

themselves and for their own people, in which they can engage, according to their individual desire, in all kinds of trades and commerce without the prohibition of the white man's color-bar; in which they can earn the wages that are governed by the laws of supply and demand only; in which they can build up after their own fashion courts of law and political councils for themselves; in which, *in fine,* they can live and work out their own salvation, unhurried and unworried by strange and impatient masters, then, surely, the Natives of South Africa will have gained a great gain, far greater than any they can ever hope to win by pitting their undeveloped strength against the organized resistance of the whites." [8]

Two objections have been made to the theory of Compulsory Segregation. Friends of the natives have opposed it on the ground that the white man, being self-interested and having full power to impose the policy, would give to the natives only those areas which the white man could not use.[9] Others have criticized it on the ground that the total separation of the bulk of the white from the black race in South Africa is economically impracticable. As we have seen, most of the gold mines could not be profitably exploited without cheap native labor. Practically all European industry and agriculture is dependent upon native labor. In the opinion of the Economic and Wage Commission "The contact of native and European has lasted too long, and their economic co-operation is too intimate and well-established, for the native to be excluded from European areas and European industries. The provisions of adequate native reserves has been delayed too long for it to be possible now to provide reserves within which it would be possible for the present native population of the Union to live without dependence on outside employment." [10] Friends of the native appear to be agreed that the native would socially be better off living on a farm of his own with his family than in the mining compounds of Johannesburg. But if any government should attempt to bring about this change it would have to overcome the opposition not only of powerful mining interests, dependent on this labor, but also of the agricultural interests who at present monopolize the land. While eventually one may expect a decrease in native labor owing to an increase in native agriculture, provided land reforms are made, the process must necessarily be gradual and incomplete.

[8] *Ibid.,* pp. 130 ff.

[9] One writer goes so far as to suggest that the Bantu race gradually be repatriated "to those regions north of the Zambesi from which they came originally." A. J. MacDonald, *Trade, Politics and Christianity, and the East,* London, 1916, p. 47. He believed, however, that these natives should be temporarily imported for labor purposes.

[10] *Report, cited,* para. 275.

3. *Differentiation*

Realizing that economic considerations make compulsory segregation impossible and even dangerous from the native standpoint, a third school of thought, advocating voluntary and partial segregation or differentiation, has arisen. This school proposes to establish a nucleus of native communities alongside of white communities. While perhaps the majority of the natives would continue, either temporarily or permanently, to work for Europeans, a part of them would have some place which they could really call their home and where they could lead their own lives, subject to some form of administration such as prevails in the Transkei or in Basutoland.

According to Professor Edgar Brookes the policy of differentiation if adopted should mean that "Europeans will govern Europeans and Natives will govern Natives and that questions affecting both must be decided upon by a mutual consent." [11]

He believes, however, that economically whites and natives will always be dependent on each other. Consequently, segregation can never be complete. It must also be a gradual process; and it cannot be compulsory as far as the white are concerned.[12] The gradual development of native communities, housing a portion of the native population, is, on the other hand, possible.

This theory presupposes legislation designed to protect white communities against black penetration and black communities against white penetration. Having an absolute control of the government, the whites have already enacted much of the legislation designed to meet the first aim. The Land Act of 1913 prohibits acquisition of land by natives outside of native areas; the Color Bar bill prohibits native competition against white skilled labor in white communities, the Urban Areas Act regulates the domicile of natives in white cities; the franchise laws, except in the Cape, bar natives from participation in the government of the country. Having erected these walls against the native, the white man's government is now considering methods of establishing black communities which will in a measure parallel white communities.

4. *The Hertzog Program*

General Hertzog who, as leader of the Nationalistic party, came into power in 1924, has been the first Prime Minister of the Union to study this question of native policy as a comprehensive whole. Accepting the

[11] *History of Native Policy in South Africa,* p. 319.
[12] *Ibid.,* Ch. XV.

theory of partial segregation or differentiation, he outlined legislation carrying this theory into effect in a notable trip through the Native Territories in the fall of 1925. In a speech at Butterworth he sketched a plan of native councils governing native communities and of native representation in a Union Parliament. A little later at Smithfield he outlined his policy in more detail, emphasizing particularly the question of the Cape franchise.

In July, 1926, the Hertzog Government published the texts of four bills embodying the Hertzog native policy:

1. The Representation of Natives in Parliament Bill.
2. The Union Native Council Bill.
3. The Native Lands Act, 1913, Amendment Bill.
4. The Coloured Persons Rights Bill.[13]

The first bill (a) takes away the native franchise in the Cape, (b) provides for the election of seven European members to the Union Assembly by eligible natives throughout the Union. Two such representatives are to come from the Cape, Transvaal, and Natal, and one from the Orange Free State. These representatives may not speak or vote on any matters affecting the increase of native electoral areas or members, or the qualifications of voters for such areas. Neither shall they vote on matters of non-confidence in the Ministry except on twelve different subjects of direct concern to the natives, such as native taxation, education, local native government, native marriage, locations, reserves, native land titles, townships, sale of intoxicating liquor, etc., and any proposal tending to discriminate against natives solely because of race or color. Under this scheme, the European representatives of "native" interests cannot hold the balance of power in the Union Parliament, except in a matter directly affecting the native population. Thus in return for abolishing the Cape franchise in which natives of one province participate in the general parliamentary elections, the Hertzog Government proposes to give the natives of the Union as a whole a communal franchise and a limited number of European representatives. The Senators nominated to represent native interests will also remain.

In his Smithfield speech, the Prime Minister stated that the native was demanding the right of voting and of sitting in Parliament but that Natal, Transvaal, and the Free State would never consent to the extension of the Cape system which, in the opinion of General Hertzog, would "mean the eclipse and will be the death-knell of European civilization." But unless the vote is taken away from the native in the Cape it will be

[13] The texts were published in the *Union of South Africa Government Gazette Extraordinary,* July 23, 1926, No. 1570.

impossible to keep it from the natives in the rest of the Union. In another fifty years the native vote in the Cape would, in his opinion, outnumber the European vote. He believed that the natives and colored voters will soon control the fifty Cape representatives out of a Parliament having only one hundred and thirty-five members. These representatives, owing their seats to non-European voters, would be obliged to advocate the extension of the native franchise to the northern provinces. To keep its majority, a political party would have to accede to the demand. If the northern provinces did not give in, they would have to secede from the Union. Many Europeans, however, especially people in the churches, were beginning to realize that it was unfair to prevent the native from arguing his case in Parliament. The Prime Minister himself did not believe that the Cape franchise would be taken away without putting something in its place. In return for taking it away he, therefore, proposed to give the "natives" a Union franchise and a limited number of "native" representatives in Parliament.[14] His policy toward the "coloured" population is discussed later.

In the second measure—the Union Native Council Bill—the government proposed the establishment of an annual Union Native Council, a development of the present annual Native Congress. Presided over by the Secretary of Native Affairs[15] this Council shall consist of thirty-five elected members, ten each elected by the Cape, Transvaal and Natal, and five by the Orange Free State, and fifteen appointed members, five from the Cape, four each from Natal and the Transvaal, and two from the Orange Free State. The term is for three years, one-third of the membership retiring annually. Representatives of natives living under tribal or communal conditions shall be chosen by chiefs and headmen; elsewhere they shall be elected according to conditions laid down in government regulations.

This Council may discuss and pass resolutions in regard to any matters relating to the economic, industrial or social condition of the native population, and any proposed legislation or existing law which especially affects the natives. It cannot, however, discuss "political" subjects—a provision which in view of the close relationship of economic and political questions will probably be difficult if not impossible to define.[16] Moreover, the Council, at the request of the Minister of Native Affairs, may pass laws, binding only upon natives, in regard to matters especially author-

[14] Speech, *Cape Times*, November 14, 1925.

[15] Members of the Native Affairs Commission and Cabinet may, according to the bill, speak but not vote at meetings of the Council.

[16] Cf. the experience of the Colonial Council of Senegal in this respect, Vol. I, p. 173.

ized by the Union Parliament. In other words, the bill envisages a native parliament controlling native affairs, subject to the supervision of a European Prime Minister. Eventually the expenditure of part of the native taxes may be placed under its control.

In his Smithfield speech Prime Minister Hertzog said that this Council "will provide scope for the talented native who is today compelled to go to the white man for anything necessary for the improvement of the natives, including their representation in parliament. The opportunity will be vouchsafed him of representing his own people in his own country without mixing with the white man, except where white leadership is essential. Where a white leadership is no longer essential, it will not be forced down the throat of the native.

"What is more, the native will become more and more conscious of the duty he owes to the native population, and that this population has first claim on his services.

"The present schism between the tribal native and the detribalised one will be healed."

By means of this limited representation of native interests in parliament, the Union Native Council, and the extension of the Transkei system of local government throughout native areas, the Hertzog Government believes it is laying the political basis of native communities. In his Smithfield speech, the Prime Minister declared, "The native is still in the infancy of his development and a considerable period must elapse before he is an independent nation [*sic*]. It is our duty, therefore, to protect him because by protecting him we protect European civilization." He also stated that within the native areas the native should be properly educated and encouraged and local conditions should be made as attractive as possible. "The guidance of the white man will be required for many years but the object of the education must be to enable the native to undertake self-rule in his own area."

The great and fundamental obstacle to the establishment of relatively self-sufficing native communities is the shortage of native land. Half of the native population now live in white areas and 15 per cent more live in European cities, where they inevitably remain under European control. If black areas and native councils are to be established more land is essential.

In introducing an amendment to the 1913 Land Act, the Hertzog Government has in theory recognized this necessity. The 1913 Act, it will be remembered,[17] proposed to establish certain areas outside of native reserves where natives alone could purchase land from the government

[17] Cf. Vol. I, p. 82.

or existing European owners. The amendment to this Act, introduced by the Hertzog Government, proposed to carry this idea into effect, but in a seriously modified form. The Land Bill of 1927 sets aside the areas recommended by the local committees in 1916 as "released areas." But instead of giving natives the exclusive right of purchase in these areas, Europeans and natives alike may purchase land. One race may therefore compete against the other. Outside the "released areas" a native may not, however, purchase land. Within "released areas," a non-native cannot acquire land wholly surrounded by native land, and vice-versa. The Act in itself does not add a single acre to native landholdings. But it simply authorizes natives to purchase land in about eight per cent of the area of the Union outside of existing reserves. The bill provides that no association of natives, other than a tribe, shall purchase land, which bars the acquisition of land by such organizations as the "I. C. U." If Europeans hold land within "released areas" which they decline to sell, the natives may be authorized to purchase land equivalent in acreage outside of the "released areas" provided it is contiguous to native land. A schedule to the bill lays down stringent fencing provisions so as to prevent cattle from trespassing on European land, and vice-versa. Although parliament may authorize the government to extend the size of "released areas," there seems to be no intention to increase these areas. In other words, this bill is intended to constitute a definitive settlement. While Europeans may purchase land as well as natives in the "released areas," apparently the government believes that the natives, because of their lower standard of living, will eventually force the Europeans out.

Another provision of the bill provides for the establishment of a Native Land Purchase and Advance Fund, fed by sums derived from mineral licenses on claims within native areas, fees from squatters, fines imposed for violation of the Act, and sums which may be appropriated by parliament. This fund is under the control of the Minister of Native Affairs.

After a date fixed by the government, a native may not reside outside of native or "released areas" (constituting about 16 per cent of the total area of the country) unless he is the owner of the land or a servant, labor tenant, or squatter.[18] A servant means a native in the continuous employment of a European proprietor. A labor tenant is a native who in return for using European land agrees to furnish labor to the European employer for at least one hundred and eighty days out of the year.[19] A

[18] These areas outside of native and "released areas" are called Proclaimed Areas.

[19] Any dependent of a labor tenant is also required to be in the service of the

labor tenant who fails to perform his one hundred and eighty days of labor is liable to a penal sanction. A squatter is a native who occupies European land in return for the payment of rent, either in the form of crop or of cash. It will be remembered that the Land Act of 1913 attempted to do away with squatting, but because of the vagueness of its provisions and for other reasons, squatting has persisted in large parts of the Union since 1913.

The new bill allows any number of servants to remain on European land, but directly or indirectly it strictly limits the number of labor tenants and squatters. A proprietor wishing to employ a labor tenant, i.e., a native agreeing to furnish labor for one hundred and eighty days a year, must secure an annual license from the district magistrate subject to a fee fixed at 2s.6d for each tenant when there are more than five and less than ten, and at two pounds for each tenant above the number of fifteen. These fees are increased when the proprietor does not occupy the land. The magistrate must submit the application to the divisional council or to a board which may grant or refuse the application, subject to review by the Minister of Native Affairs. This council may also refuse to renew a license. By this means the councils, which will be composed mostly of European farmers, may prevent a wasteful employer from locking up a potential labor supply. If a council declines to license the presence of labor tenants upon one man's farm, the tenants will be forced to move to another farm or to the cities unless they desire to become continuous servants. Under this system, a labor tenant has no guarantee of fixed residence for more than one year.

According to Article 19 of the bill a license, authorizing a squatter or rent-paying native "lawfully residing" on the land before the application of the Act, may be issued in the manner provided for licenses for the employment of labor tenants. This license is subject to a fee of three pounds in case the land is under European occupation; if not, the fee is five pounds.

The fourth bill introduced by the Hertzog Government is entitled the Coloured Persons Rights Bill. The Coloured Persons, who number several hundred thousand, are the offspring of inter-racial unions many of which are said to date back to marriages between the Dutch and Hot-

proprietor and a dependent is defined as a person between the ages of twelve and eighteen. According to the *Workers' Herald,* "This means then that besides giving the proprietor six months' hard labor in return for the acquisition of a small piece of land, the whole family of a Native labor tenant between the ages of twelve and eighteen will become the servants of the non-Native proprietor of the land. The analogy is unparalleled in civilized history, unless one goes back to the case of the American Negroes."

tentots. This bill provides that for a period of seven years the colored population shall vote for one European representative in Parliament for each province, except in the Cape where they already vote upon the same basis as the whites. Colored voters during this period must meet literary and property qualifications prescribed by the province, and have a standard of life conformable to that of European civilization. At the end of seven years, the government may, if authorized by a resolution of both Houses, place the colored voters on the ordinary voters list.

A "coloured person" is defined as one who is not a European or a native. A "native" means any member of an aboriginal race or tribe of Africa and any person whose mother or father is or was a member of such race or tribe; provided that where the father or mother of such a person is or was a European or a member of the Cape colored race and such a person was born before the commencement of the Act, he shall not be regarded as a native, but as a colored person, entitled to these franchise privileges.[20]

Thus the bill grants the franchise to the *existing* colored population. Persons born of mixed unions in the future shall be regarded as natives. The government claims that this bill for the first time in history lays down the "principle of political equality as between the European and coloured population."

In explaining this proposal, the Prime Minister said in his Smithfield speech, "We have to remember that we have to do with a section of the community closely allied to the white population, and one that is fundamentally different from the natives. He owes his origin to us and knows no other civilization than that of the European (although he is sometimes lacking in appreciation of it), and even speaks the language of the European as his mother tongue. There can thus be no talk of segregation. That is the reason why during the last seven years, the Nationalists in Parliament have held the view that Cape Coloured people must be treated on an equality with Europeans—economically, industrially and politically.

"The result of this policy has been than an alliance between them and the native population has been stopped. Luckily they felt that their interests were more closely allied to those of the European than to that of the native. It is their wish just as much as it is ours that they should stand by themselves with regard to the franchise."

These four measures, the Representative of Natives in Parliament Bill,

[20] There is a provision that upon the recommendation of the Governor-General, parliament may declare a person born of mixed parentage after the application of this Act, a colored person.

the Union Native Council Bill, the Native Land Amendment Bill, and the Coloured Persons Rights Bill were laid on the table of parliament in 1926. It was declared that the measures stood or fell together; parliament could not enact one and reject the other. In March, 1927, these bills were formally placed before parliament and referred to a Select Committee which took evidence from Europeans and natives.[21] Parliament adjourned in July after adopting the part of the land bill relating to released areas. It is expected that the report of the Committee will be completed so that the parliament may act upon the remaining bills in the next session.

5. *Criticisms*

A large number of natives and Europeans opened a flood of criticisms upon these measures,—notably the Native Conference held in Pretoria in November, 1926, the Johannesburg Joint Council of Europeans and Natives, and General Smuts. The criticisms directed against the Native Council Bill and the Coloured Persons Rights Bill, which it seems were less vigorous than those directed against the remaining legislation, will be discussed first.

While the Johannesburg Council in a carefully worked out memorandum was in favor of some kind of Council, it declared that the proposed Union Native Council was merely another name for the existing nominated Native Conference authorized in the Act of 1920. The new Council "does not give the Native any greater share in the Government of the country than he has without it." [22] This would seem to be rather an extreme statement in view of the fact that the bill does authorize the government to establish electoral machinery whereby native representatives to this Council may be chosen and that it vests certain definite legislative powers, with the consent of the government, in the Council. Whether or not this body will really function will depend upon the regulations issued by the government. In view of changing conditions and of growing native experience, it would seem that the government has acted wisely in leaving the definition of the native electorate and of the powers of the Council to administrative regulation rather than to the more or less inflexible provisions of a parliamentary statute. The European-Bantu Conference, held under the auspices of the Dutch Reformed Church, advocated that a register of qualified native voters for the Council should be maintained and that greater authority should be given the Council in initiating discussions.

[21] *House of Assembly Debates,* March 31, 1927, No. 9, col. 209.

[22] "General Hertzog's Solution of the Native Question," *Johannesburg Joint Council of Europeans and Natives,* Johannesburg, 1926, p. 4.

The followers of the Cape school did not protest against the Hertzog proposal to give the "coloured" population the franchise upon the same basis eventually as the European. But General Smuts, among others, pointed out that under the bill it would still be illegal for a colored person to sit in Parliament. Moreover, the establishment of machinery for a separate voting register would, in his opinion, impose hardships. "Many a coloured person with a preponderance of white blood who has hitherto by courtesy passed as a white will in future have to run the gauntlet of the coloured list if he wishes to preserve his political rights. . . . The coloured list may become a terrible ordeal for many." [23] General Smuts also declared that the "absurd and arbitrary" definition limiting colored persons to those born before the Act shows "that the Government are really doubtful of the coloured policy they are recommending to the country, and that they wish to call a halt at a point where a halt is clearly impossible. . . . The white people of the Union will have honestly and frankly to make up their minds whether they will confer the superior white status on all coloured people without distinction now and hereafter throughout the Union, or whether the risks of such a policy are too grave and whether it is wise to wait and see whether miscegenation is or is not on the wane in the Union." He also pointed out that the plan made no provision for Indian representation.

There is an even more fundamental difficulty with the Hertzog proposal to assimilate the existing "coloured" population with the European. If the plan succeeds, there is no logical reason why the educated native who differs little from the colored person or the mulatto should not also be given the same consideration. In admitting the possibility of "coloured" assimilation, the Hertzog Government has rejected its own reasoning in regard to the necessity of establishing separate racial communities. The real test of the plan will come when the colored person demands social equality with the white. While they may not object to a few colored voters or to colored skilled laborers, the Europeans, whether they inhabit Cape Town or Bloemfontein, show no more signs of asking a "coloured" gentleman to dinner than a native. Altogether, it seems that the purpose of the Hertzog proposal is the opportunistic one of enticing away a number of colored leaders of the native population.

Even more vigorous criticisms have been directed against the Franchise and Land Bills. The Native Conference, meeting at Pretoria in November, 1926, rejected the Franchise Bill altogether. The Johannesburg Joint Council declared that under this bill the Cape native would

[23] General J. C. Smuts, *Memorandum on Government Natives and Coloured Bills,* Pretoria, 1926, p. 14.

lose his status as a citizen. It declared that if natives were to be represented in Parliament, they should be represented by natives and not by Europeans. The Act provided no machinery for the election of the seven representatives—there were no safeguards against abuse. Moreover, it objected to the whole principle that native interests were something apart from the interests of South Africa generally, and to the idea "that in the government of the country, affecting as it does every member of the community, the Native is to take no serious part; that whether the financial policy of the Government is wise or unwise is not a question in the decision of which the Native is to share; that industrial measures and tariff modifications in which the Native may be more deeply concerned than other members of the State may, if the Government of the day regards them as matters of confidence, be passed into law without the Native representatives being allowed to record their votes." It went on to declare, "The Native population of South Africa is an integral part of the community and has a right to adequate representation in all its councils." The bill contains no inducement to the natives "either to advance towards civilization or to bear his share of the government of the country." It declared that the Prime Minister's fears in regard to the native electorate's eventual overwhelming of the European electorate were unfounded. The Cape native vote in 1921 amounted to only ten per cent of the European vote, despite the fact that the Cape native had been eligible for the franchise during three-quarters of a century. The Council did not believe that the native would vote on native instead of on party lines. General Smuts also declared that since the Union the native voters had increased by 7,549 while the European voters in the Cape had increased by 35,185.[24] Moreover, he believed that in view of Section 35 of the South Africa Act providing that no person already in possession of the franchise could be disenfranchised,[25] this bill disenfranchising Cape native voters would be unconstitutional. The Hertzog Government ap-

[24] For the percentage, cf. Vol. I, p. 132.

[25] Article 35: "(1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the Province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the Province of the Cape of Good Hope by reason of his race or color only, unless the bill be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person who at the passing of any such law is registered as a voter in any Province shall be removed from the register by reason only of any disqualification based on race or color."

parently believes that Article 35 cannot prevail against a majority vote of both Houses of Parliament; the first article of the Representative of Natives in Parliament Bill simply states that the provisions of the Act shall have effect notwithstanding Section 35.[26]

In itself the Cape franchise has not been of material importance to the Cape native and colored people, and its extension throughout the Union, one is bound to admit, would create endless problems and difficulties. At the same time, the natives of the Cape and elsewhere cling to the Cape franchise as a symbol of an independent and equal status with the whites which they hope in the future may be realized. Any policy which takes away the franchise without placing something substantial in its place is looked upon, quite naturally, as a policy of repression. When this legislation follows the color-bar bill excluding natives from skilled employment in the cities and when it accompanies land legislation which increases the restrictions imposed on natives occupying native land, these fears among the native population are increased.

According to many South Africans the Land Amendment Bill presents even more serious defects. General Smuts has declared that in admitting European purchases in "released areas," the new bill abandons the principle of segregation set up in the Land Act of 1913 and which is at the basis of the present government's theory of Differentiation. He says, "The door is once more set open to all the evils of mixed or piebald landholding against which the Act of 1913 was intended to provide." [27] Since the potential purchase areas for natives is limited to eight per cent of the area of the country, the price of land held by Europeans in these areas will naturally rise, and it is difficult to see how the government will be able to prevent speculation. It has been pointed out that the fees charged European farmers for squatter and tenant licenses are so drastic that few farmers may profitably engage tenants or squatters, especially when native servants, working continuously throughout the year, may be found. Rather than pay these fees, they will probably serve notice on the tenants and squatters to become servants or leave the farm. Such natives will not be able to find room in over-crowded cities or reserves, confronted by impossible living conditions there, many of them would consequently be forced to become servants to European landlords. The Johannesburg Joint Council says, "There will be no freedom of contract and the so-called servants will be indistinguishable from slaves. . . . Is this any better than the condition of the Natives in South Africa before

[26] The extent to which the Constitution of South Africa binds Parliament is discussed in Vol. I, p. 193.

[27] *Memorandum, cited,* p. 5.

the abolition of the slave trade?" While it did not wish to imply that these natives could be bought or sold, they could be moved from one farm to another by district boards and they had no incentive to acquire skill or become independent peasant farmers. "Theirs will be forced labour in its most acute form." [28]

While from the absolute standpoint these strictures may be sound, the fact remains that the 1927 Bill does not seem to be much more severe upon native residents on European farms than the Land Act of 1913 which was the product of the Smuts Government. Nevertheless, in failing to set aside the reserved areas authorized by the 1913 Act, the Hertzog Government opened itself to the charge that it was more interested in reducing native residents upon native farms to the status of involuntary servants than in increasing the native land holdings, which is essential for the establishment of the native communities which the government in theory supports.

The European-Bantu Conference, convoked by the Dutch Reform Church, stated that the Local Committee Areas constituted the minimum acreage to satisfy native needs, and that this acreage should be set aside for native acquisition only.

6. *Dangers of the Hertzog Policy*

Apparently in an effort to win over the support of the Nationalist party to its other native bills, the Hertzog Government accepted the Color Bar measure which became law in the spring of 1926. Viewed as part of the policy of establishing parallel black and white communities, the color bar does not present in theory so many objections as it does standing alone. Within the black communities, natives will be allowed to develop an economic society in which natives may rise to the top. In return, they will be excluded from competing with whites in European communities.

The Hertzog native bills, as we have seen, thoroughly protect the dominion of the white man in the white communities, which nevertheless depend upon native labor. But what do they actually do in bringing about the establishment of black communities? They authorize the establishment of district councils and a Native Parliament with power to discuss matters affecting native life, under severe European control. But these councils cannot operate except in native communities and the government has made no adequate provision for the creation of these communities as far as a large proportion of the native population is concerned. This can be done only by a revision of the present land system which the

[28] *Ibid.*, No. 1, pp. 15, 17.

government has not dared to bring about. The fundamental objection to the Hertzog program, as it at present stands, is that while it bars native economic and political advancement in white communities, it does nothing to create new opportunities for native advancement in black communities simply because these communities do not exist. If this program goes through as it stands, the native population will probably for the time being be worse off than before. But it will have one advantage. Through the machinery which the government has established, the native population may voice its demands for the removal of these color bar and land restrictions. If the government attempts to suppress or ignore such criticism, it probably will have some form of revolution on its hands. It is a dangerous policy to establish representative bodies and then give no heed to their demands.

At the present time and for as long as can be foreseen, European enterprise in South Africa will be dependent upon native labor. Because of the existing land shortage, which will grow more and more acute, thousands of natives will be literally forced to spend their lives in European employment. It would seem only just, under these conditions, that no obstacle to native advancement in European employment should be imposed. Moreover, according to a dozen government commissions, the abolition of the color bar in industry would be of advantage from the standpoint of developing the resources of the country as a whole. While this would probably lower the artificially high wages now paid to European skilled labor, the opening of new channels of industry would not only decrease the cost of living and hence increase real wages, but it would make openings for the employment of many more white men than can under the present economic system be engaged.

The abolition of the color bar should be accompanied by further changes in the land system. The grave social problems which now exist in the urban areas of South Africa will not be solved until many of the natives living in these cities return to the farms. No community life can be developed, however, as long as the reserves are over-populated as they are to-day, and as long as a million or more natives are obliged to live a precarious existence upon European estates. Public opinion in South Africa is not disposed to give further land to the natives, and apparently it is not disposed to extend purchase areas. Nevertheless, it should be possible to give some independent and secure status to natives, servants or squatters, now on European farms. In the past many of them have cultivated land unoccupied by European owners. This squatting has been opposed by the government on the ground that it intensifies the evils of absentee landlordism and that native cultivation is inefficient and un-

supervised. It would seem, however, that the abolition of squatting and of labor tenancy which would be the result of the proposed land bill will curtail rather than increase agricultural development in South Africa. In view of the restrictions imposed on the economic progress of the country and upon the liberty of natives to live their lives on the land of their fathers, the South African Government should seriously consider a plan of setting apart certain farms adjoining released or native areas in which native squatters woud be authorized to lease land from European owners in return for security of tenure and some form of agricultural supervision. This idea was recently sanctioned by the European-Bantu Conference, called by the Dutch Reformed Church, which passed a resolution favoring a system of native lease farming for fixed periods under the control of a Land Board. To provide for agricultural improvements and training the Conference favored a system of loans.

Some light may be thrown on this problem by a discussion of the situation of the "crofters" in Scotland.

7. *The "Crofter" System*

Before 1885, a land system prevailed in the Scotch Highlands similar in some respects to the situation of squatters on South African farms to-day—a system apparently originating in the clan system, under which feudal proprietors allowed tenants called crofters to occupy their land in return for the payment of rent and services. The crofters had, however, no legally recognized security of tenure; they were subject to the payment of high rents; they were not compensated for improvements, and holdings were not properly cultivated. In 1884 the British Government appointed a commission to inquire into the condition of these crofters, and as a result of their recommendations [29] legislation was passed [30] providing that the owner could not remove the crofter except for breach of statutory conditions which included failure to pay rent. In case of removal,

[29] The condition of the crofter was described by this commission as follows:
"The crofter of the present time has through past evictions been confined within narrow limits, sometimes on inferior and exhausted soil. He is subject to arbitrary augmentations of money rent, he is without security of tenure, and has only recently received the concession of compensation for improvements. His habitation is usually of a character which would almost imply physical and moral degradation in the eyes of those who do not know how much decency, courtesy, virtue, and even mental refinement survive amidst the sordid surroundings of a Highland hovel. The crofter belongs to that class of tenants who have received the smallest share of proprietary favour or benefaction, and who are by virtue of power, position, or covenants, least protected against inconsiderate treatment." *Report of Her Majesty's Commissioners of Inquiry into the condition of the Crofters and Cottars in the Highlands and Islands of Scotland,* C. 3980 (1884), p. 7.

[30] 49 and 50 Vict. Cap. 29 (1886).

the crofter should be compensated for improvements as determined by the Crofter's Commission, established to supervise the working of the act. Rent was fixed at the figure existing at time of the passage of the act unless changed by agreement between the landlord and the crofter; or on the application of either party, by the Crofter's Commission. By this means the crofter has security of tenure subject to the payment of rent fixed by the Crofter's Commission which sees to it that he makes proper use of the land. The crofter may even extend his holdings on the estate of a landlord, subject to the permission of the Commission.[31]

It appears that largely as a result of this system, the crofters of Scotland have become some of the most respectable and enterprising people of the community. As we have seen in South Africa, European landlords possess immense holdings upon which more than a million natives find a hazardous and uncontrolled existence and upon which other natives would, under proper encouragement, settle. No democratic government would dare to attempt the expropriation of these European landlords, no matter how improvidently they use their lands. But many of these landlords prefer to receive rents from native farmers than to work the land themselves. Through extending "released areas" in which natives may purchase land, through this crofter idea where squatters may acquire the undisturbed use of land, and through a tax on the unearned increment of land, the fundamental obstacle to a settlement of the native problem in South Africa could eventually be overcome.

The obstacles to a solution of the race problem in South Africa are formidable almost to the point of despair. While the leaders realize the necessity of a new policy, the great masses of Europeans who control the government and who own the land find it difficult to shake off century-old beliefs and to support legislation involving the sacrifice of their im-

[31] An example follows: "In 1902 the Ardcharnich Crofters made another application for part of Inverlael adjacent to the township. The Application was opposed by the Landlord on various grounds, but particularly on the ground that the assignment of the land applied for would impair the use of the remainder as a Deer Forest and would be essential to him if he should resume farming operations thereon. This objection could not be regarded as serious in the circumstances of Inverlael, but important questions as to fencing arose. The land applied for, it should be explained, consisted of (1) a long narrow strip situated between the public road and the seashore, and (2) a considerable area of grazing ground lying above the public road. If all this land were assigned it would require to be fenced off from the rest of the Deer Forest, and as the Applicants could not place a gate across the public road, both sides of the road for a distance of about a mile would require to be fenced. This would be a serious undertaking for the Applicants, and we accordingly restricted the proposed assignment to the land between the public road and the sea. This land extended to 23 acres, which were valued at £4.19s or 11s for each of nine shares. The Applicants were ordered to fence this land, and having done so they duly got possession."
Report of the Crofter's Commission, 1910-1912, Cd. 6788 (1912), xii.

mediate interests. Nevertheless, there are many signs of a growing appreciation of the problem. The Dutch Reformed Church, probably the most important unofficial organization in the country, is taking the lead in the movement of popular education. Through outlining these comprehensive bills and proposing a concrete policy, the present Prime Minister has shown an intelligence and courage which none of his predecessors has demonstrated. The mere fact that the leader of the Nationalist party has dared to support measures giving natives a form of representation in parliament shows how long a distance South African opinion has traveled during the last few years.

In the past, the so-called "liberals" in both Europe and America—most of whom have been addicted to the Cape theory of assimilation—have been unduly harsh in their judgment of the South African people. They forget that Europeans came to this country with the same innocence as the Pilgrim Fathers came to America and like many American pioneers regarded the primitive people who opposed them as Philistines whom they were divinely called upon to destroy. They also forget that the white man settled in some parts of South Africa earlier than the ancestors of the present black inhabitants who, as a result of inter-tribal war, came pouring out of Central Africa in comparatively recent times. An appeal to history, therefore, is without value. The fact is that five and a half million blacks live alongside one and a half million whites. As the Natal Native Affairs Commission said, "Noted for their fecundity and virility, they [the natives] will not die out or succumb to ordinary adversity, and, as we can neither assimilate nor destroy them, political forethought and common sense alike call for a settlement of the question on a broad, enlightened, and permanent basis." [82]

The principles sanctioned by the Hertzog Government are an important contribution to this settlement. Not the least of their value is the fact that these principles may serve as a guide to other colonies, such as Kenya and Rhodesia, the white settlement of which has, comparatively speaking, only begun and where, consequently, the application of these measures should be easier to achieve than in South Africa where a policy of drift for the past two centuries has left an increasing accumulation of conflicting interests.

[82] Cd. 3889, *cited*, p. 10.

APPENDICES—SOUTH AFRICA

I. The India-South Africa Agreement, 1927

APPENDIX I

THE INDIA-SOUTH AFRICA AGREEMENT, 1927

JOINT COMMUNIQUÉ

"It was announced in April, 1926, that the Government of India and the Government of the Union of South Africa had agreed to hold a round-table conference to explore all possible methods of settling the Indian question in the Union in a manner which would safeguard the maintenance of Western standards of life in South Africa by just and legitimate means. The conference assembled at Cape Town on December 17, and its session finished on January 11. There was, in these meetings, a full and frank exchange of views, which has resulted in a truer appreciation of mutual difficulties and a united understanding to co-operation in the solution of a common problem in a spirit of friendliness and goodwill.

"1. Both Governments reaffirm their recognition of the right of South Africa to use all just and legitimate means for the maintenance of Western standards of life.

"2. The Union Government recognise that Indians domiciled in the Union, who are prepared to conform to Western standards of life, should be enabled to do so.

"3. For those Indians in the Union who may desire to avail themselves of it, the Union Government will organise a scheme of assisted emigration to India or other countries where Western standards are not required. Union domicile will be lost after three years' continuous absence from the Union in agreement with the proposed revision of the law relating to domicile, which will be of general application. Emigrants under the Assisted Emigration Scheme who desire to return to the Union within the three years will only be allowed to do so on refund to the Union Government of the cost of the assistance received by them.

"4. The Government of India recognise their obligation to look after such emigrants on their arrival in India.

"5. The admission into the Union of the wives and minor children of Indians permanently domiciled in the Union will be regulated by Paragraph 3 of Resolution XXI. of the Imperial Conference of 1918.

"6. In the expectation that the difficulties with which the Union has been confronted will be materially lessened by the agreement which has now happily been reached between the two Governments, and in order that the agreement may come into operation under the most favour-

able auspices and have a fair trial, the Government of the Union of South Africa have decided not to proceed further with the Areas Reservation and Immigration and Registration (Further Provision) Bill.

"7. The two Governments have agreed to watch the working of the agreement now reached and to exchange views from time to time as to any changes that experience may suggest.

"8. The Government of the Union of South Africa have requested the Government of India to appoint an agent in the Union in order to secure continuous and effective co-operation between the two Governments."

The following is a more detailed summary of the conclusions reached at the Conference:

SUMMARY OF CONCLUSIONS

I. *Scheme of Assisted Emigration*

(1) Any Indian of 16 years or over may avail himself of the scheme. In case of a family, the decision of the father will bind the wife and minor children under 16 years.

(2) Each person of 16 years or over will receive a bonus of £20 and each child under that age a sum of £10. No maximum shall be fixed for a family. A decrepit adult who is unable to earn his living by reason of a physical disability may, at the discretion of the Union authorities, receive a pension in lieu of or in addition to the bonus. The pension will be paid through some convenient official agency in India out of a fund provided by the Union Government to such amount as they may determine. It is expected that the amount required will not exceed £500 per annum in all.

In every case the bonus will be payable in India on arrival at destination or afterwards through some banking institution of repute.

(3) Free passage, including railway fares to port of embarkation in South Africa, and from port of landing in India to destination inland will also be provided.

(4) Emigrants will travel to India, via Bombay, as well as via Madras. Emigrants landing at Bombay will be sent direct from the ship to their destination at the expense of the Union Government.

Survey and certification of ships shall be strictly supervised and conditions on the voyage, especially in respect of sanitary arrangements, feeding, and medical attendance, improved.

(5) Before a batch of emigrants leaves the Union, information will be sent to some designated authority in India at least one month in advance giving (a) a list of intending emigrants and their families, (b) their occupation in South Africa and the occupation or employment which they would require in India, and (c) the amount of cash and other resources which each possesses. On arrival in India emigrants will be (i) advised and, as far as possible, protected against squandering their cash money or losing it to adventurers, and (ii) helped as far as possible to settle in occupations for which they are best suited by their aptitude or their resources. Any emigrant wishing to partici-

pate in emigration schemes authorised by the Government of India will be given the same facilities in India as Indian nationals.

(6) An assisted emigrant wishing to return to the Union will be allowed to do so within three years from the date of departure from South Africa. As condition precedent to re-entry, an emigrant shall refund in full to some recognised authority in India the bonus and cost of passage, including railway fares received on his own behalf and, if he has a family, on behalf of his family. A pro rata reduction will, however, be made (i) in respect of a member of the family who dies in the interim or of a daughter who marries in India and does not return, and (ii) in other cases of unforeseen hardship at the discretion of the Minister.

(7) After expiry of three years Union domicile will be lost in agreement with the proposed revision of the law relating to domicile which will be of general application. The period of three years will run from the date of departure from a port in the Union and expire on the last day of the third year. But to prevent the abuse of the bonus and free passage by persons who wish to pay temporary visits to India or elsewhere no person availing himself of the benefits of the scheme will be allowed to come back to the Union within less than one year from the date of his departure. For purposes of re-entry within the time limit of three years, the unity of the family group shall be recognised, though in cases of unforeseen hardship the Minister of the Interior may allow one or more members of the family to stay behind. A son who goes with the family as a minor attains majority outside the Union, marries there and has issue, will be allowed to return to South Africa, but only if he come with the rest of his father's family. In such cases he will be allowed to bring his wife and child or children with him. But a daughter who marries outside the Union will acquire the domicile of her husband, and will not be admitted into the Union unless her husband is himself domiciled in the Union.

II. *Entry of Wives and Minor Children*

To give effect to paragraph 3 of the Reciprocity Resolution of the Imperial Conference of 1918, which intended that an Indian should be enabled to live a happy family life in the country in which he is domiciled, the entry of wives and children shall be governed by the following principles:

(a) The Government of India should certify that each individual for whom a right of entry is claimed, is the lawful wife or child, as the case may be, of the person who makes the claim.

(b) Minor children should not be permitted to enter the Union unless accompanied by the mother, if alive, provided that:

(i) The mother is not already resident in the Union; and

(ii) The Minister may in special cases permit the entry of such children unaccompanied by their mother.

(c) In the event of divorce, no other wife should be permitted to enter

the Union unless proof of such divorce to the satisfaction of the Minister has been submitted.

(d) The definition of wife and child as given in the Indians Relief Act (No. 22 or 1914) shall remain in force.

III. *Upliftment of Indian Community*

(1) The Union Government firmly believe in and adhere to the principle that it is the duty of every civilised Government to devise ways and means and to take all possible steps for the uplifting of every section of their permanent population to the full extent of their capacity and opportunities, and accept the view that in the provision of educational and other facilities the considerable number of Indians who will remain part of the permanent population should not be allowed to lag behind other sections of the people.

(2) It is difficult for the Union Government to take action, which is considerably in advance of public opinion, or to ignore difficulties arising out of the constitutional system of the Union under which the functions of Government are distributed between the Central Executive and the Provincial and minor local authorities. But the Union Government are willing

(a) in view of the admittedly grave situation in respect of Indian education in Natal, to advise the Provincial Administration to appoint a provincial commission of inquiry and to obtain the assistance of an educational expert from the Government of India for the purpose of such inquiry;

(b) to consider sympathetically the question of improving facilities for higher education by providing suitable hostel accommodation at the South African Native College at Fort Hare and otherwise improving the attractiveness of the institution for Indians.

(c) to take special steps under the Public Health Act for an investigation into sanitary and housing conditions in and around Durban which will include the question of

(i) the appointment of advisory committees of representative Indians; and

(ii) the limitation of the sale of municipal land subject to restrictive conditions.

(3) The principle underlying the Industrial Conciliation Act (No. 11 of 1924) and the Wages Act (No. 27 of 1925), which enables all employees, including Indians, to take their places on the basis of equal pay for equal work, will be adhered to.

(4) When the time for the revision of the existing trade licensing laws arrives, the Union Government will give all due consideration to the suggestions made by the Government of India delegation that the discretionary powers of local authorities might reasonably be limited in the following ways:

(1) The grounds on which a licence may be refused should be laid down by statute.

(2) The reasons for which a licence is refused should be recorded.

(3) There should be a right of appeal in cases of first applications and transfers, as well as in cases of renewals, to the courts or to some other impartial tribunal.

SECTION II

BASUTOLAND



South Africa and the Rhodesias

CHAPTER 10

THE CONTEST WITH THE BOERS

TOTALLY surrounded by South African territory and having an area of about twelve thousand square miles, broken by mountains of rugged beauty, Basutoland has been called a little Switzerland. The Basutos who inhabit this country are a branch of the Bantu race and originally consisted of thirteen loosely organized clans.[1]

About 1800, a native named Moshesh was born who was predestined to unite these clans into a nation. King Moshesh of the Basutos, like his opponent King Tschaka of the Zulus, is among the great figures of African history.

1. *Moshesh and the Boers*

Moshesh united the Basuto people against the fearful onslaughts of the Zulus who at the beginning of the nineteenth century terrorized the whole of South Africa. Having beaten off these black invaders, Moshesh found himself confronted with a still more dreadful foe—the white man. To protect himself against the evil consequences of western industrialism, Moshesh invited missionaries—representatives of the Paris Evangelical Society—to take up their residence in his country and they have ever since sturdily defended the interests of the Basutos.[2]

At this period, the country over which Moshesh ruled occupied not only the mountainous area now confined in its present boundaries, but part of the rich agricultural plain which lies between Maseru and Bloemfontein. Trekking northward from Cape Town, Boer farmers asked Moshesh's consent to occupy these lands—a consent which in many cases was given. Having occupied this land, the European farmers started to sell it to newcomers, which irritated Moshesh who said they were only tenants. Some of these farmers, under the restraint of no government

[1] Cf. D. F. Ellenberger, *History of the Basuto, Ancient and Modern,* London, 1912.

[2] In 1858, one of the greatest missionaries in African history, François Coillard, came to Basutoland where he worked for about twenty years. He also labored twenty years in a native state to the north, Barotseland, discussed in Vol. I, p. 238. Cf. C. W. Mackintosh, *Coillard of the Zambesi,* London, 1907, and Edouard Favre, *La vie d'un Missionnaire français, François Coillard,* 1834-1904, Paris, 1922.

except Moshesh's authority, went further and killed several Basutos, charging that they had stolen cattle. In 1839, Moshesh appealed to the British governor at Cape Town for protection against these new invaders—an appeal which was repeated in 1842.[3]

After years of hesitation the Governor, Sir George Napier, warned farmers against encroaching upon Basuto lands, while in 1842 he made a treaty of alliance with Moshesh, in which he promised to pay the king an annual subsidy of seventy-five pounds. But the treaty did little more; its chief weakness was that it failed to define the boundary between Basutoland and the newly constituted Orange Free State. Differences over the boundary soon arose which the parties concerned tried to settle at a conference in 1845. In that year, Moshesh made a new treaty with the British in which he agreed to accept a British resident who would try mixed cases and control land leases to whites. But as the resident was given no financial or military support, matters became more and more confused until in 1848 to straighten matters out the governor of Cape Colony annexed not only Basutoland but its troublesome neighbor, the Dutch Orange Free State. This did not prevent the white farmers from taking advantage of the dispute over the boundary line to occupy additional Basuto land which led the Basutos to retaliate with raids. In 1850, the British at Cape Town decided to suppress these raids, which led the French missionaries to protest to the British Colonial Office against a policy which one minute defended and the next attacked the Basutos.

In this appeal they declared that there had been "an unwarrantable disregard of the rights, the past history, the different habits, the relative position and the respective wants of the native population." They continued: "This has led the natives to suspect the Government of a disposition *to divide in order to reign.* . . . Natural rights, past grievances, past benefits, past engagements and treaties, feudal allegiances, kindred ties, family bonds, have been discarded and overlooked." [4]

Despite this appeal British troops were again sent against the Basutos on the ground that they were thieves. Sir Godfrey Lagden says, "It was virtually judgment without trial." Nevertheless, the Basutos administered punishment to the judge at the battle of Berea. Sick of the whole business, the British Government withdrew from the Orange River Sovereignty and virtually invited the Boers, who established a provisional government at Bloemfontein in 1854, to handle the Basutos as they liked. For the next few years, the Free State and Moshesh constantly quarreled over

[3] Cf. Sir Godfrey Lagden, *The Basutos,* New York, 1910, Vol. I, pp. 66 ff.
[4] *Ibid.,* p. 124.

the boundary between them which had never been defined. Moshesh wrote to President Boshoff of the Free State, "When we saw that the Whites crossed the Orange river (in 1836) we wondered at it. They crossed by lots. They begged from the Blacks for pasturages everywhere, one by one, in a very good soft manner. We did not imagine that they would appropriate the land to themselves, and when I heard that they were purchasing farms from each other I hastened to issue a proclamation . . . telling to the Whites: *Do not barter the land, for it is not our custom of us Basuto to do so.* According to our custom, the land belongs to all the people, it is bequeathed to our posterity, it is not disposed of by bargain and also it is not our habit to define limits in it." [5]

In 1858, the Boers replied by war. But despite their destruction of the French mission at Morija, the Free State proved no match for the Basutos who, sheltered by mountain crevices, even manufactured their own gunpowder. At the intervention of Sir George Grey, the British High Commissioner at Cape Colony, a treaty of peace was made defining a boundary; but it was not carried out, and the Basutos were once more left by the British defenseless again the Boers. In despair, Moshesh again implored the aid of the Queen. In 1862 he said, "What I desire is this: that the Queen should send a man to live with me, who will be her ear and eye, and also her hand to work with me in political matters. . . . My 'House' is Basutoland. So that the Queen rules my people only through me. The man whom I ask from the Queen to live with me will guide and direct me and communicate between me and the Government. . . . I wish to govern my own people by native law, by our own laws; but if the Queen wish after this to introduce other laws into my country, I would be willing; but I should wish such laws to be submitted to the Council of the Basutos; and when they are accepted by my Council, I will send to the Queen and inform her that they have become law." [6]

This remarkable statement of the principle of Indirect Rule did not, however, bring forth fruit; [7] and war again broke out between the Free State and Moshesh. After reciting the offenses of the Basuto, which were principally cattle-stealing, President Brand of the Free State issued a proclamation saying: "Rise then, burghers of the Orange Free State! To arms, in the name of God, for the defence of your rights and the protection of your homesteads and property, and for the suppression of the arrogance and violence of the Basutos! Be courageous and strong, and put your trust in the Righteous Judge who hears the prayer of faith." In

[5] Lagden, *cited*, p. 195.
[6] *Ibid.*, Vol. I, p. 315.
[7] Imperial commissioners recommended that a government agent be appointed at Basutoland, but no action was taken.

reply to this proclamation, Moshesh said. . . . "All persons know that my great sin is that I possess a good and fertile country."

Following this war, the Basutos were obliged to accept the Award of 1865 in which they agreed to deliver up their arms; to accept at their capital of Thaba Bosigo a Free State magistrate; to pay within four days ten thousand head of cattle and five thousand horses as war reparations, and thereafter sixty thousand sheep and thirty thousand cattle as compensation for robberies committed against the burghers. Moshesh also agreed to cede certain lands and to deliver up his two principal sons as hostages. In despair, Moshesh again wrote to the High Commissioner at Cape Town that he would never submit to the Free State and implored the protection of the Queen. Meanwhile, irresponsible Basutos invaded the territory of Natal and the Transvaal which led the Transvaal to declare war in which the Free State later joined. For the first time in history, Free State troops succeeded in invading the stronghold of the Basuto mountains, as a result of which Moshesh was obliged to cede several hundred miles of territory which he promised his people would immediately evacuate.

Accusing them of intervening in politics and menacing the Free State, the Burgher government now expelled the French Protestant Missionaries from Basutoland.[8]

Criticism of this expulsion was so strong that the Free State finally agreed to allow them to return provided they would pay five hundred dollars for each mission station they had constructed—an offer indignantly rejected. Meanwhile, the Basutos fretted under the terms of the Award of 1865. An historian says: "The drift of affairs was now obviously bad. The land ceded by treaty was bought up largely by speculators who thought more of the rise in value than finding tenants. Owing to signs of unrest, farmers did not take up occupation freely. Consequently, the Basutos, observing the ground they had been forced to quit remaining untenanted, returned in squads to cultivate and hunt. Stealing became rife and the sanguine hopes of peace entertained by the Free State were again withered." [9]

As a result of these actions, the Free State again declared war in 1867 following which it obliged Letsie, the son of Moshesh, to cede the whole of his country over which he ruled, except for a small tract of land, to the Free State in a treaty which led to a protest from the British Government. The failure of Letsie to live up to these terms led the Free State again to declare war. Thus subjected to repeated attacks, the Basutos became

[8] President Brand of the Free State opposed the action on the ground that it would deprive the Basutos of their one restraining influence. But he had no veto over the vote of the Volksraad. C. W. Mackintosh, *cited*, p. 146.

[9] Lagden, *cited*, p. 410.

reduced in numbers; their cattle were taken from them; and their country became impoverished, and the people disorganized. The nation which Moshesh had built up was on the verge of disintegration.

In a memorable document signed by the Duke of Buckingham in 1867, the British Government finally agreed that to save Basutoland from the Free State it should be annexed. This declaration angered the Boers who continued their fight against the Basutos who were forced to cross from Basutoland into Natal. Finally aroused out of the torpor in which the "little England" school had placed it, the British Government now issued a proclamation declaring Basutoland British territory and imposing an embargo on the sale of arms to the Free State. In the Convention of Aliwal North in 1869,[10] between Great Britain and the Orange Free State, a boundary was drawn between the Free State and Basutoland which returned to the Basutos a small portion of land but which ceded to the Free State about half the territory which the Basuto nation had originally occupied. As a result of these wars, about fifteen thousand Basutos had migrated from their country in despair.[11]

2. *Relations with the Cape*

Having saved the Basutos from extinction, the British now proceeded to send an agent to the territory. But as the Basutos had no intention of giving up their national independence, conflicts arose. Still lacking in enthusiasm for the administration of this country, the British Colonial Office administered Basutoland only for two years when it agreed that it should be annexed by and become a native reserve of the Cape Colony, which was done in 1871. The Cape drew up a Code of Regulations for Basutoland curtailing the powers of the chiefs in regard to the administration of justice and the control of land. Apparently aroused at this Code, Chief Letsie asked that the Basutos be given representation in the Cape parliament. In reply, the Cape authorities declared that if Basutoland were given such representation, it would become an integral part of the Cape, subject to English and not native laws, and would thus be deprived of many privileges.

Difficulties between Basutoland and the Cape again arose, particularly when the Cape tried to apply the Peace Preservation Act and disarm the Basuto people. The Basutos asserted that the Cape could not apply a Cape law to Basutoland inasmuch as the act of annexation provided that Basutoland should not "by virtue of its annexation be or become subject

[10] Convention of February 12, 1869; Hertslet, *Map of Africa by Treaty,* Vol. II, p. 814.

[11] Lagden, *cited,* Vol. II, p. 480.

to the general laws of the Colony." But the Cape Government said that the subsequent introduction of responsible government had relieved it of this obligation not to apply general legislation. It thereupon proceeded to enforce the proclamation. Some natives called "Loyals" submitted, but the majority resisted and a rebellion broke out—the Gun War of 1880-1881. The difficulties of subduing the Basutos proved so great that the Cape Government passed a disannexation law abandoning Basutoland altogether. Once more it regained independence and once more it found itself confronted by the Burghers of Bloemfontein.

Controlled by domestic conditions at home, the Imperial Government was reluctant to undertake the protection of Basutoland, which it had discarded in favor of Cape Colony a few years before. But finally the British Crown issued an order in 1884 establishing a protectorate over Basutoland, and vesting all legislative and executive power in a High Commissioner [12] on condition that the Cape pay an annual subsidy of twenty thousand pounds to the Basutoland Government, thus relieving the Imperial treasury.[13] The office of High Commissioner is held by the same person who is Governor-General of the Union of South Africa. In the exercise of his powers as High Commissioner, the Governor-General acts independently of the South African cabinet, and is responsible only to the Colonial Office in London.[14] He is represented in Basutoland by a Resident Commissioner.

In instructing the first Resident Commissioner, the Imperial Government insisted that expenditure should not exceed the twenty thousand pounds contributed by the Cape Government, plus local taxes. The Resident Commissioner should at first merely protect life and property on the border. The Basutos were to be "encouraged to establish internal self government sufficient to suppress crime and settle inter-tribal disputes." When the Boer War broke out in 1899, the Free State attempted to induce the Basutos to side against the British. This attempt was thwarted, and Basutoland was spared the scourge which swept other parts of South Africa.

[12] The High Commissioner is authorized to appoint a resident commissioner and magistrates, "and generally to take such measures, and to do all such matters and things as he may think expedient for the like peace, order, and good government." *Basutoland Orders in Council, High Commissioner's Proclamations, etc.,* 1868-1913, p. 1.

[13] This subsidy has long since been discontinued.

[14] Apparently, the authority of the High Commissioner in South Africa was first recognized in the Basutoland Order in Council of 1884. The powers of the High Commissioner have been defined in at least ten different instruments. "Return of all Instruments showing the Nature and Extent of the Authority for various purposes of the High Commissioner for South Africa over and in respect of the several Colonies, Possessions, and Protectorates included in British South Africa," H. C. Return 130, 1905.

This outline of the history of Basutoland has been recited to show the fate of a primitive people obliged to deal upon a basis of equality with white men responsible to no one but themselves—the Burghers of the Orange Free State. Only the intervention of the British Government in 1867 and 1884 saved the Basutos from extinction; but it was too late to prevent the loss of half of their land. This was a case, of which the history of the Ashanti is another example,[15] where a little more "imperialism" would have spared the native population a good deal of sorrow.

[15] Cf. Vol. I, p. 787.

CHAPTER 11

THE COUNTRY AND ITS GOVERNMENT

1. *Population and Trade*

At the present time, Basutoland has a native population of about 543,078—a number which increased 23.43 per cent between 1911 and 1921, and 15.55 per cent between 1904 and 1911.[1] While these figures indicate that during the last ten years the native population of Basutoland has increased about 8 per cent more rapidly than the population of South Africa, they are subject to much the same inaccuracies as the South Africa figures. It appears that part of the Basutoland increases is due to immigration from the Herschel and other districts in the Union.[2] Natural increases have not been greater because of the limited resources of the country and the number of natives who are obliged to seek work periodically in labor centers in the Union. In the opinion of government physicians, the birth rate of Basutoland is now declining, owing partly to increased venereal disease, some cases of which are contracted at the Johannesburg mines. According to the 1921 census, about 47,000 natives are absent at labor centers (37,827 men and 9,314 women) out of 543,000. Taking the adult male population at a fifth of the total or 108,000, this would mean that nearly two-fifths of the men (excluding the ten thousand women) are away at work. While administrative officials do not believe that this emigration has had any effect upon the tribal organization of the country, agricultural officers believe that agriculture would be improved if the men stayed at home.

Moreover, a recent report on education has declared: "It was complained that the character of the young men and of the children is sadly lower than that of their parents, the change being particularly evident during the last ten years. Especially notable are a general want of respect in all directions, the increase of stealing, lying, insobriety and whoring. It was suggested that the chief cause of all this backsliding is 'going

[1] The figure in 1904 was 347,731, and in 1911, 401,087. *Basutoland Census*, 1921, p. 5.

[2] For some reason, probably because of the necessity of finding new land, the population in the district of Qacha's Nek in Basutoland increased eighty-five per cent during the last ten years; while in three districts (Mafeteng, Mohale's Hoek and Quithing) it increased less than five per cent.

abroad', not so much to the mining districts as to the sugar plantations and farms in the Free State, and that Government could help greatly in this respect by keeping a more careful scrutiny on labour-recruiting, and insist on none being taken under the age of eighteen." [3]

This tendency to go abroad has been increased by the growing impoverishment of Basutoland. According to one speaker in the National Council: [4] "Most of the people in Basutoland are poor. . . . The prolonged droughts have increased the number of the poor." Another said, "I don't agree that there are no poor in Basutoland, the people have not sufficient lands, some have one land from which they raise four or five bags of grain. But what is the price of grain? About five shillings a bag; the man has a family, how can he divide the five bags to buy clothing and his other necessaries of life? The Basuto lead a difficult life in these days. Of course there are some who go to the mines for fear of the gaol, but what about the people who are rejected by employers of labour?" [5] One does not find in Basutoland the social development which may be found in such native states as Uganda and in the Gold Coast. This may be due to the ebb and flow of migratory labor.

The population density of Basutoland per square mile is 48.30, but inasmuch as large areas of Basutoland are too mountainous to be habitable, this figure does not mean a great deal. Officials state that Basutoland is relatively over-crowded and that the people are now obliged to move into the mountains and till rocky soil which hitherto has been untouched. In 1924 Basutoland imported in excess of her exports about 58,000 muids of grain.[6] For some reason, in 1925, the exports of wheat tripled, and those of maize quadrupled, leaving a balance of exports over imports.[7] Whether this is due to improved methods of agriculture or merely to temporary conditions, it is impossible to say.

The Basuto people keep great herds of sheep and goats, which require more land than would be necessary under an intensive system of agriculture. In 1924, the exports of the country amounted to nearly 959,000 pounds, 716,000 pounds of which represented wool, and 183,000 pounds of which represented Angora hair. The revenue of the government amounts to about 252,300 pounds, 135,000 pounds of which comes from the native head tax, and seventy thousand pounds from Basutoland's share in the customs collected by the Union. An export duty on wool brings in more than fourteen thousand pounds. The country became so pros-

[3] F. M. Urling Smith, *A Report on Native Education in Basutoland,* 1925-1926, Cape Town, 1926, p. 5.
[4] *Minutes of the 1924 Council* (typewritten), p. 227.
[5] *Minutes, cited,* p. 227.
[6] *Basutoland Report,* No. 1244, 1924, p. 7. [7] *Ibid.,* No. 1294, 1925, p. 7.

perous that between 1907 and 1910, it made three loans to the Government of Swaziland, totalling about eighty thousand pounds. They were consolidated at a rate of 3½ per cent in 1910, for a term of twenty-five years.[8] By 1924, Swaziland had paid off forty-five thousand pounds of this debt to Basutoland. A proclamation of the High Commissioner[9] extended the date of payment of the remaining thirty-five thousand pounds to 1943. It does not appear that the people of Basutoland were deprived of the use of capital needed for local development by these loans, and, unlike the case of the Togo loan to the Cameroons,[10] the value of the capital sum loaned remains unimpaired. Nevertheless, the rate of 3½ per cent interest is now not very remunerative to the Basutoland budget.

2. *Administration*

The Imperial High Commissioner at Pretoria is responsible for the administration of Basutoland as of the Bechuanaland and Swaziland protectorates. But the actual administration of the country, the capital of which is Maseru, is in the hands of a Resident Commissioner under whom are a number of magistrates. The Imperial High Commissioner stands to the Resident Commissioner much in the same way as the French Colonial Office stands to a governor. That is, all proclamations of Basutoland are made by the High Commissioner upon the advice of the Resident Commissioner who continuously consults him upon administrative matters.

Under this arrangement, the British have faithfully followed the policy of keeping Basutoland a native state. Maseru, the capital, is a city without street lights, sidewalks or sewers. The government declines to expend money on Europeans. No European lawyers may practice in Basutoland courts except when the offense is murder; and no European is allowed to trade except with a license.[11] At present there are one hundred and eighty-eight trading stations in the territory. No Europeans can hold land from the government because it has no Crown land. Having been led to believe that certain chiefs contemplated alienations to Europeans, the High Commissioner issued a Concessions Veto Proclamation in 1922, the preamble of which said it was "expedient to provide that no concession or grant heretofore or hereafter made by any Native Chief having authority in Basutoland should be recognized in any court of law as of any force or effect in Basutoland with respect to any land or any tribal property or rights unless and until the same has been sanctioned and approved by His Majesty's Secretary of State."[12] The proclamation

[8] Cf. *Basutoland Proclamations*, 1868-1913, p. 124.
[9] No. 6 of 1924.
[10] Cf. Vol. II, p. 284.
[11] *Basutoland Proclamations, cited*, p. 17.
[12] *Ibid.*, p. 20.

thus subjected all such grants to the approval of the Secretary of State (and not to the High Commissioner).

While it recognizes a system of native courts, the British authority has established a system of tribunals of its own to try cases involving Europeans and the more serious crimes of natives. Each assistant commissioner may hold a court and exercise such jurisdiction as is defined in his commission. The Resident Commissioner acts as the supreme or high court of the territory in regard to all cases, civil or criminal. But no sentence of death can be carried into effect without the warrant of the High Commissioner.[13] Except in native cases, the law of Cape Colony is applied.

The administration of Basutoland is unique among British territories in that the punishment of whipping may not be inflicted except for a limited number of offenses, such as rape, distributing indecent publications, and stock thieving.[14] The latter offence became particularly prevalent following the World War, and led to a vigorous discussion in the 1924 Basutoland Council. In this discussion, the acting Resident Commissioner said: "One thing I do not agree with in this discussion, and that is the free way in which the councillors accuse the chiefs as thieves. There is certain liberty allowed but you must keep within certain bounds. Some members suggest that thieves be shot at sight; one that they be given lashes once a week; one said that they should be bound with grass and set fire to; another that we should brand them on the cheek." It was finally decided to ask the High Commissioner to issue a proclamation authorizing the High Court (and not the court of the assistant commissioner) to impose fifteen lashes for stock thieving—a request which was finally granted.[15]

3. *The Native Government*

At the head of the Basuto nation stands a Paramount Chief, the descendant of Moshesh, through whom the British control the country. The present occupant of this position is Chief Griffith, who is a Roman Catholic. He does not command the undistilled devotion of all Basutos, some of whom follow Chief Jonathan, another descendant of Moshesh, a Protestant who has some claim to be head of the nation. The Paramount Chief receives a stipend, paid out of the government budget, of about eighteen hundred pounds a year.

Basutoland is divided up into seven districts and two sub-districts occupied by a total of fifty-six principal chiefs who owe allegiance to Chief Griffith. These chiefs receive subsidies from the government varying from thirty to two hundred pounds a year. The next layer in this feudal

[13] *Proclamations*, 1868-1913, pp. 14, 39. [14] *Ibid.*, pp. 16, 161. [15] *Ibid.*, 1924, p. 33.

cake consists of about five hundred sub-chiefs and of twenty-four hundred headmen, who do not include the petty headmen. These sub-chiefs and headmen receive tax gratuities from the government, amounting usually to four per cent of the tax of their district. Thus in 1924, the government paid gratuities amounting to seven hundred and seventy shillings to one hundred such officials in the Maseru district for having assisted in the collection of 23,500 pounds.

These chiefs settle disputes among their subjects and control the disposition of land. The smallest unit is the village over which a headman presides. His court tries all but the more serious offenses and it usually imposes fines on the basis of "two to one." That is, if a Musuto steals a sheep, the court orders him to pay back two, one of which goes to the injured party and another to the headman as a fee. The court of the sub-chief hears appeals from the courts of headmen, and also some original cases arising out of an area called a ward. In some districts a number of wards are grouped under a principal chief, who has a court which tries appeals and other cases subject to review by the Court of the Paramount Chief.

This court concentrates upon such matters as disputes over succession to the chieftainship and appeals from the chief courts. The Paramount Chief does not as a rule personally preside but appoints one of his entourage as president of the court. In fact several courts of the Paramount Chief, each with its president, may sit on different disputes at the same time. Such is the hierarchy through which the country is administered. The government transmits its orders or requests to the Paramount Chief who in turn gives them to the chiefs immediately under him until they finally reach every village in the land.

In an effort to establish some control over these tribunals, the Proclamation of 1884 provided that a native could take an appeal from the court of any chief to the Combined Court—a court composed of the European assistant commissioner of the district concerned and the court of the Paramount Chief and in case they do not agree, to the Resident Commissioner.[16] But this provision that a native could appeal to the Combined Court without first coming to the court of the Paramount Chief aroused the opposition of the Paramount Chief who asked, at the Basutoland Council in 1908, that no such appeals should lie until after the case had been tried by the supreme native tribunal.[17] While the government declined to amend the Proclamation of 1884 to this effect, it appears that

[16] *Proclamations, cited,* p. 15.

[17] *Report of Proceedings of the Basutoland National Council,* 1908, Cd. 4196, 1908, p. 14.

in practice the wishes of the Paramount Chief are now observed. Despite this control many abuses in these native courts have occurred.

4. *Criticism of Basuto Courts*

A number of years ago the educated natives—Basutos who had gone to mission schools but who were commoners within their tribe—organized the Progressive Association of Basutoland. This Association and its members directed a good many criticisms against the system of native justice. The Paramount Chief has found it almost impossible to supervise the native courts because of their great number. There must be at least three thousand native courts in the country. Procedure was criticized as being slow, partly because any native, whether he was a party to the dispute or not, had the right under native law to enter the court and ask questions of the witnesses. As no limit to fees and fines was fixed, the chiefs derived most of their income from this source, and hence were tempted to administer "justice" with a view to increasing their fortunes. Even now these native courts do not apparently keep any records, nor has the British Administration attempted to control and revise judgments, according to the system applied in other British territories in Africa.[18] These abuses were emphasized in a letter of a Basutoland native to the *Bloemfontein Friend,* December 2, 1921, as follows:

"The heartbreaking nature of the whole of the native misrule is particularly felt when one has a court case. He is kept waiting trial for his case until there are so many cases to be dealt with that it will take months before his own case is finished and as a result of the postponements the party loses heart and goes back home where he finds a part of his stock has been lost while he was waiting for his case to be tried. Should he lose heart and leave the Chief's Court before his case is tried, judgment will be given against him as he will have been considered to have been guilty of contempt of the Chief's Court.

"The Chiefs refuse an appeal to the Resident or Assistant Commissioners' Courts, but if one persists and goes to the European courts he is required to produce letters from his Chief, failing which he is sent back to this same Chief, who will address him something like this: 'Those White men to whom you went are mine, they cannot try your case without me' and, taking revenge, he dismisses the case.

"The unfortunate part is that the rules of the Basutoland Government do not permit the White men, who are full of justice, to interfere with Native cases that come under the judgment of the Chiefs. This means that a Chief can and does deprive his people of cattle and other stock just as he pleases without one having any recourse but to meekly submit. My object

[18] Cf. index—native courts.

in writing this letter, therefore, is to bring before the notice of the White men and particularly Government officials in Basutoland and the Union, the great misuse of justice as carried out by the Chiefs of Basutoland. I voice the opinion of many hundreds of my countrymen in asking that His Excellency the Governor General will send out a commission for the purpose of inquiring into the complaints of the people of this country, for we are true and loyal subjects of His Majesty King George and we groan under a burden of oppression."

In his annual message to the Basutoland Council in 1922, the High Commissioner declared that this question of native justice had caused him "grave anxiety for some time past." He said further, ". . . Members of the Council have doubtless read or heard of the serious complaints which have recently been published in various European and native newspapers, both in Basutoland and elsewhere, as to the manner in which the Basutoland native courts perform their work.

"I have regretfully come to the conclusion that these complaints are not without some justification and I feel deeply concerned that such a state of affairs should exist.

". . . It is a great privilege for a chief to be entrusted with such powers as are exercised by the native courts in Basutoland but the chiefs and councillors must appreciate that such a privilege carries with it great responsibility, and that any lack of diligence on the part of the native courts in discharging promptly and impartially the important duties imposed upon them, or any abuse of the powers entrusted to them, must react unfavorably upon them and upon the whole Basuto nation."

At the session of the Basutoland Council of 1922, a member proposed that the court of the Paramount Chief should be replaced by a court of five men, three elected by the people and two by the chief, all of whom should be paid a salary. Another member proposed that an inspector, appointed by the council, should supervise these courts. While these proposals were not accepted, the council appointed a committee to draw up a reply to the High Commissioner. It proposed that to reform the administration of justice, the native laws—the Laws of Lerotholi—should be revised and enforced. But when Chief Jonathan suggested that appeals should go direct from the courts of the principal chiefs to the assistant commissioners without first going to the Paramount Chief, Chief Griffith accused Jonathan, his rival, of "deceitfulness" and of wishing to "deprive me of my blanket."

As a result of this discussion, the Basutoland Council enacted some amendments to the Laws of Lerotholi, one of which provided that each court should keep a register of cases and that each chief should personally

preside over cases unless prevented by illness, under penalty of a fine ranging from fifty shillings to five pounds. Any chief or headman who refuses a request for appeal is liable to a fine of twenty pounds.[19] Chief Griffith also appointed three natives from the Basutoland Progressive Association to sit as judges on the court of the Paramount Chief—thus introducing a reformist element; while for a time he fixed a scale of fees.[20]

It appears, however, that some jealousy arose between the old and the new judges which led a native paper [21] to say that the quarreling must be stopped; otherwise the "public, in utter disgust, would raise a hue and cry of 'alas! our chieftainship' with one mournful gasp!" As a result of these measures, it seems that justice is more swift now than a few years ago.

It is not surprising that abuses have existed in view of the independence with which these courts have functioned. The introduction of the measures of control found in other British territories, such as the installation of records and review by district officers; the payment of salaries to judges in place of gratuities, and the reduction of the number of petty courts are reforms worthy of consideration.

5. *The Laws of Lerotholi*

As far back as in 1903, the Basutoland Native Council, hereafter to be discussed, adopted a sort of native code known as the Basutoland Native Laws of Lerotholi—named after the Paramount Chief of that time. "They are all directed towards checking the arbitrary power of Chiefs and towards regulating the proceedings and limiting the judgments in native courts. They are all strictly in accordance with unwritten native law as recognized by the Basuto, and are not in conflict with the letter or the spirit of the Basutoland Government Regulations. . . . They are of course not laws in the sense that law is understood in Government Courts in Basutoland, but are rather a preservation and registration in written form of wise and unobjectionable native law." [22]

In 1908, complaints arose that the chiefs did not obey these "laws," following which the request was made that they should be enacted and enforced by the British authority—an idea which the government, as well as the Paramount Chief, eventually declined to accept.

These laws have been amended frequently, the last changes having been made in 1922 with a view to remedying abuses in the native courts. Altogether there are twenty-five laws. The first provides that succession of the chieftainship shall be by the first born male of the first wife. Law Two recognizes that the Paramount Chief has full power over every chief,

[19] Laws 3, 19. Laws of Lerotholi. [20] Cf. *Bloemfontein Friend,* March 28, 1923.
[21] *Naledi Ea Lesotho Labohlano,* June 22, 1923.
[22] *Despatch of H. C. Sloley, Resident Commissioner,* Cd. 4196, *cited,* p. 4.

and that any person disobeying the summons of the Paramount Chief is liable to punishment by the Chief's Court. Some of the other laws are mentioned elsewhere.

6. *Land Tenure and Tribute*

In addition to their judicial power, the Basutoland chiefs possess certain rights over the land. All land is held by the nation, represented by the chiefs.[23] The British government has not attempted to introduce the Glen Grey type of holding found in the Transkei and in other parts of South Africa, but has left the control of land to the chiefs. It appears that each principal chief controls the land in his area through his subchief who allots each man three lots, one for kafir corn, one for mealies, and a third for forage wheat. According to Law Eight of the Laws of Lerotholi, "All chiefs and headmen must by law provide people living under them with lands to cultivate. Further, it is their duty to inspect lands, and if it is found that some people have more than is necessary, then the chiefs or headmen shall deprive such people of such surplus lands and grant to those who have not sufficient." Certain land is set aside for commonage, and used mostly for grazing purposes. Succession is controlled by tribal law. Owing to the shortage of land, in many cases younger brothers are now obliged to go out to the mines to obtain a living. Boundary disputes are frequent, and they are usually arbitrated by the Resident Commissioner and the Paramount Chief. Once a dispute is decided, beacons are erected and the boundary entered in the government "Boundary Book." By this means, a system of titles or of more secure tenure may gradually be built up.

Basuto chiefs in olden times exacted tribute called "letsema" from their people. Law Four of the Laws of Lerotholi says that any chiefs may still call out their people "to take messages for them or to cultivate their lands." Anyone who refuses to obey becomes liable to a fine not exceeding ten shillings or two days of work. Originally, letsema was limited to four days in the year when the natives helped the chiefs with spring plowing in return for which they received their food. But the same forces have begun to operate in Basutoland as in Taganyika,[24] and the chiefs find that they can make money out of free labor. Consequently, they have increased their land holdings at the expense of the commoners. Because of the increased size of the fields and of the number of men

[23] A different system is followed in the protectorate of Bechuanaland. The area of this protectorate is estimated to be about 275,000 square miles, of which a little less than half has been proclaimed as native reserves. The remainder is Crown land, but the government at present does not alienate it.

[24] Cf. Vol. I, p. 458.

away at the Johannesburg mines, the people who stay at home must now in many cases perform twelve days of letsema instead of four every year. Many natives also complain of not being fed. The anonymous native writer to the *Bloemfontein Friend* in 1921 said: "Believe me, Sir, the Chiefs have turned the Basutos into a nation of slaves by making them plough and hoe patches of land belonging to the Chiefs' many wives without food or payment. While at work those in charge of them even refuse to allow them to go for a drink of water. Some time ago several men were reported to have been killed by the young Chiefs where this 'free' labor was in progress."[25]

As a result of the protest of the Basutoland Progressive Association and efforts of the government, these abuses have apparently been lessened. It appears, however, that, following the example of Tanganyika, Basutoland should sooner or later commute the value of tribute into money payments, part of which should go into a national Basuto treasury, the administration of which and the responsibility for which should be put in native hands under British supervision and control.[26]

Finally, the Basuto chiefs have certain powers in regard to the collection of taxes. Before 1899, the chiefs assumed full responsibility for the collection of taxes which they turned over to the British Government. At that time, the rate was only ten shillings a hut; but following the Boer War, the tax was doubled and collection became more difficult. In 1905, the government came to the aid of the chiefs by placing the responsibility for tax collection in the hands of the European assistant commissioners in charge of the districts. At present, the chiefs and the headmen merely assist the assistant commissioner in compiling tax registers, while they round up taxpayers at different centers which the commissioner visits.[27] The commissioner writes the tax receipts and handles the funds. Basutoland chiefs do not, therefore, have as much power in regard to taxes as do the chiefs of Uganda or of Nigeria.[28] In 1920, the Basutoland tax was increased to twenty-five shillings;[29] while in 1925 it was increased two shillings in order to establish a special educational fund. In addition, there is an export tax on wool, the incidence of which probably falls upon the natives. While the natives of Basutoland are heavily taxed, the rate is lower than in the Union of South Africa.[30]

[25] "Justice in Basutoland," *Bloemfontein Friend,* December 2, 1921.

[26] For this plan in Nigeria and Tanganyika, cf. Vol. I, pp. 458, 688. For the Transkei scheme, cf. Vol. I, p. 96.

[27] Cf. Regulations, *Proclamations, cited,* 1868-1913, p. 140.

[28] Cf. Vol. I, pp. 575, 695.

[29] *Ibid.,* 1920, No. 53.

[30] The Union tax is two pounds, but as it is only a poll tax a native does not have to pay more than one tax compared with the Basutoland native, who must pay a tax for the hut of each wife.

A native who wilfully refuses to pay his tax within six months after it is due is liable to a fine of five pounds or in case of default, to imprisonment for three months.[31] This sentence does not, however, cancel his indebtedness. An interesting debate took place in the Basutoland Council in 1925 upon this point, in which a number of speakers pointed out that the longer a man stayed in jail the more his taxes would accumulate. They proposed that instead of putting defaulters in jail, the government should allow them to work off their taxes on the roads (as is done in other British colonies). But the Resident Commissioner, Sir Edward Garraway, stated that this would be a form of "forced labor" which the British Government could not support.[32]

While at the present time, the assistant commissioners have the power to exempt certain classes of natives from the tax, they apparently do not grant exemptions simply on the ground of poverty. It appears that the government, to save such natives from going to jail, urges them to sign a contract with a labor recruiter to go out and work six months on the mines. Inasmuch as no one can leave the territory without a tax receipt, the labor recruiter usually advances the tax and later has it deducted from the boy's pay.[33] From the standpoint of native welfare, it would be perhaps more desirable that, instead of indirectly obliging him to seek work several hundred miles from home for a private employer, the government should furnish the means whereby impoverished natives could work off their tax obligations on the roads or on some other public work.[34]

7. *The Pitso*

Probably the most interesting feature of the institutions of Basutoland is the National Pitso or Council which now meets annually at Maseru, the capital. Originally, the Pitso meant simply a gathering of a tribe or clan. The first National Pitso of the Basutos was held in 1875.[35] But no such body met periodically until 1903, when at the suggestion of British officials, a National Council was formed. Three meetings were held between 1903 and 1910. In the latter year, a government proclamation placed the council upon a permanent basis.[36]

Following the example of the Transkei, the Pitso is presided over by the Resident Commissioner. He is the only European, however, who is a member of the body. The other members are composed of ninety-four chiefs and other natives nominated by the Paramount Chief with the

[31] Proclamation No. 3 of 1911. *Proclamations, cited,* p. 138.
[32] *Minutes of the 1925 Council,* (typewritten) p. 238.
[33] Cf. the discussion in the 1925 Council, *ibid.,* pp. 227 ff.
[34] Cf. Vol. II, p. 496.
[35] Lagden, *cited,* p. 483.
[36] Proclamation of March 31, 1910, *Proclamations, cited,* p. 121.

approval of the Resident Commissioner, and of five members nominated by the Resident Commissioner who usually selects former native officials, teachers, or ministers. Including the Resident Commissioner and the Paramount Chief, the council thus has one hundred members.

Twenty-one representatives come from the Maseru district, nineteen from Leribe, twelve from Berea, fourteen from Mafeting, thirteen from Mohale's Hoek, nine from Quithing and six from Qacha's Nek. The number of these representatives was apportioned originally by the Paramount Chief, in consultation with the Resident Commissioner, upon the basis of population. But since 1910, the population has been moving to the mountains with the result that while in 1911 Leribe had four thousand more people than Maseru, it now has eight thousand more people. Consequently the chiefs of Leribe demand greater representation. This demand for more seats is affected by the rivalry between the Paramount Chief Griffith, who lives in the Maseru district, and Jonathan, who lives in Leribe. If Griffith would increase the number of Leribe representatives, he would thus strengthen Jonathan's influence.

In addition to the movement to readjust representation upon a population basis, there has been a movement to introduce elective representation into the council, which has been led by the young men in the Progressive Association. Partly through their influence, the people in the Leribe district now meet in local "Pitsos" to nominate the Leribe representatives. Jonathan then sends in these names to the Paramount Chief for approval. A case recently occurred in which the Leribe people nominated two young men in place of old chiefs. But these nominations were rejected by the Paramount Chief—an action which the Resident Commissioner supported on the ground that the appointing power was vested in the Paramount Chief. The rejection of the Leribe nominations, needless to say, was a further strain upon the relations between Jonathan and Griffith. Nevertheless, Jonathan continues to follow the advice of local Pitsos; and people in other districts, who witness this practice, have asked that they be given similar control.

In 1924, the leader of the Progressive Association, Simon Phamotse, moved that the members of the council be chosen proportionately to the number of people in each district. But the conservatives pointed out that the representatives did not come from the districts as such but from the chiefs. The majority of the council turned the idea down. Nearly a fourth of the present members now on the council were originally appointed to membership in the first Pitso of 1903. Consequently, the conservatives are firmly intrenched. It is nevertheless possible that the Basuto educated young men, who are making the same demands as the

Uganda young men, will eventually obtain some recognition of the elective principle.

The Pitso meets in the Council House at Maseru which was built in 1909. Chiefs and their followers come galloping in from all parts of the country on the ponies for which the country is famous; and live in houses especially erected for the use of councillors. Seventy-nine members are paid fifteen pounds each as expense money. The remaining members, the more important chiefs, are paid twenty pounds each, except the Paramount Chief, who receives twenty-five pounds.

Strangely enough, members must attend the sessions of the councils dressed in European clothes.[37] When entering or leaving the chamber, each member, as in the House of Commons, bows to the chairman—the Resident Commissioner, and also to the Paramount Chief or his representative. The leading chiefs sit upon chairs arranged in an inner circle. One of these chairs, cushioned with leather, is occupied by the Paramount Chief and is located directly to the right of the dais which the Resident Commissioner occupies. Back of the leading members are benches used by lower chiefs and commoners. Within the last few years, Chief Griffith has not attended very regularly on the ground that he is "indisposed." He has, however, always sent a representative, which is in fact required by the regulations.

The level of debate in the Pitso (as well as in the Transkei Council) is probably higher than in any legislative body in Europe or America. While speakers talk with enthusiasm, they talk with great dignity and earnestness, and their gestures are marvellously effective. Devotion to the memory of Moshesh, the founder of the nation, is strong, and the chairman always opens the meeting with the salutation, "Paramount Chief, sons of Moshesh, and members of the Council." The members lowest in rank open the debate, while the principal chiefs talk toward the close. The Paramount Chief closes the debate, and as a rule the question under discussion is decided according to the opinions of the Paramount Chief or his representative. Voting, however, is the exception, since the council has only advisory power; few committees are appointed. The debates of the Pitso take place in the Sesuto language but are translated for the benefit of visitors into English. The Minutes of the Council are published in Sesuto only.

8. *Powers*

Basutoland is governed by two kinds of laws: (1) native laws, which the council has codified under the heading of the Laws of Lerotholi; (2)

[37] Regulations for the Conduct of the Basutoland Council, para. 3.

English laws, which take the form of proclamations issued by the High Commissioner. As far as the first type of legislation is concerned, the council is virtually supreme, subject to a veto of the Resident Commissioner which is seldom exercised. But inasmuch as native law is a well-defined body of rules, the council makes few changes except to meet new conditions.

Thus Law Twenty-Three of the Laws of Lerotholi was enacted by the council to meet the growing menace of burr-weed. It provides that any person refusing to eradicate burr-weed shall be fined a goat, and any headman who does not order his people to eradicate burr-weed shall be fined five pounds by his chief. In a recent address to the Pitso (1923), the High Commissioner complained that the chiefs were not enforcing the burr-weed law, and that if it was not enforced in the future, the government would be obliged to make a proclamation in regard to the subject which would place the enforcement of the rule in the hands of British officials and courts.[38] This actually happened in 1921, when the government enacted an Anthrax Proclamation,[39] which obliges any chief or headman who suspects that any animal in his district is suffering from anthrax to report the fact to the assistant commissioner. Failure to report is punishable by British and not native courts, and the chiefs must report directly to the British official, and not through the Paramount Chief. While the natives dislike this encroachment upon native authority, British officials justify it on the ground that the native authority proved unable to act in matters protecting the health not only of the inhabitants of Basutoland, but of the neighboring white farmers in the Union, some of whom exaggerate the presence of stock and other diseases in Basutoland, in order to justify the demand for annexation. At the present time, Basutoland is suffering from the invasions of locusts, the suppression of which is still in the chiefs' hands. But they have done their job so poorly that the British authorities have threatened to enact a proclamation in regard to it.

According to the proclamation of 1910, the Pitso was created for "the discussion of the domestic affairs of the territory." The British Government is, however, under no legal obligation to consult the council before enacting legislation binding the country. In practice, it is consulted in a large number of cases. Viscount Gladstone, when High Commissioner for South Africa, divided proclamations into three groups: (1) proclamations such as customs laws which only indirectly affect the Basutos and which could not with any advantage be placed before the council; (2)

[38] For the same question in regard to the Gold Coast by-laws, cf. Vol. I, p. 799.
[39] No. 7 of 1921.

proclamations the issue of which could not be conveniently postponed until a meeting of the council, such as East Coast Fever Regulations and laws to prevent the spread of dangerous diseases among men and animals such as plague and anthrax; and (3) laws which directly and intimately touch the daily life of the Basutos, such as native taxation and other domestic legislation. Laws in the latter group will always be submitted to the Pitso for discussion before they are enacted. But in all cases, the decision whether or not any law should be laid before the council before it is issued, and whether or not it should be enacted rests with the High Commissioner.

Unlike the Transkei Council which has an effective control over finance, the Basuto Council cannot prevent increases in taxes. Thus in 1920 the government, with the consent of the Paramount Chief, increased the tax from twenty to twenty-five shillings, despite the unanimous opposition of the council. At the annual council meeting, the government informs the council of the amount of revenue collected in the past year and of the manner in which it has been expended. But it does not consult the council about future expenditures. This was the object of the criticism of a native councillor in 1923 who declared, in regard to the increase of European salaries, "It is not right to make use of another's money without consulting him. The tax is paid by the Basutos and must not be expended without their knowledge. We should not be given round figures only about the Establishments, etc. We should know who the Government employees are and what they are doing and what each individual's pay is." [40]

So far, the government has shown no disposition to submit the Estimates to the council. In these different respects the council therefore has much less actual power than the Transkei Council. It does, however, maintain an indirect control over, or at least receives information from departmental officers such as the veterinary surgeon and the chief medical officer, who explain measures which the government has taken to improve native welfare.

In recent sessions, there has been a growing demand that the powers of the Pitso be extended. In closing a debate in the eighteenth session the Paramount Chief said, "Your Honor has heard the opinion of this Council. . . . During the discussion some members complained that draft laws were not laid before the Council, and I heard the President replying that he was not compelled to do so. They said even if you are not compelled, they wished to know how long they would be 'saddled' with laws they have not known about. I support their 'cry,' Your Honor, that you

[40] *Minutes of the 1923 Session*, p. 110.

may recommend to His Royal Highness [the High Commissioner] that if any matter is to affect us, it should be placed before the Council first, so that we may be aware of it." Another chief said, "We are human beings and have feelings. It is painful when laws are passed without letting us know of them." These remarks were provoked by the discussion of a proclamation issued by the government which licensed debt collectors or "agents." The native word for "agent" means also "lawyer," hence the Basutos were afraid that the proclamation would authorize the entrance of European lawyers into the country.

When the session of the Pitso ends, the Resident Commissioner forwards the minutes and a summary of the "cries" or resolutions of the natives to the High Commissioner at Pretoria, who replies stating whether or not the "cries" can be granted.

While the Basutoland Council is not as highly developed from the standpoint of political science as the Transkei Council, one feels that it is more fitted to the social framework of the people than is the Transkei Bunga. The council is not dominated and controlled by European officials, and it is organized on a tribal basis. Probably because native law is enforced by native and not by European courts, the Pitso debates the amendment of native law less frequently than does the Bunga. At the present time, however, the Union Government pays much more attention to the opinion of the Bunga in regard to taxation and proclamations than does the High Commissioner in regard to Pitso resolutions. If native institutions in the Basutoland are to grow, it would appear that the Pitso should be given greater power. The establishment of a native treasury, similar to that in the Transkei or in Nigeria, should be considered.

While Basutoland is faced with the same division between the traditional governing class and the educated commoner found elsewhere in Africa, it has done little to grapple with the problem of improving the intelligence and the character of the chiefs. Despite the régime of prohibition, a number of chiefs have become addicted to drunkenness. In 1908, the Resident Commissioner at the Pitso meeting said, "Even this Council which is beginning to be looked at by other native nations as a thing to envy you on account of, is in danger of being spoiled by drink. I hear that while you are here in Maseru you bring drink into the village." He also declared, "The Basuto nation has opportunities that I think no other native race possesses. You are at peace. You are allowed to manage your own affairs to a great extent, and now you put yourselves in danger of losing the position to which you might attain through having these opportunities, by giving way to drunkenness." [41] The gov-

[41] Cd. 4196, *cited*, p. 16.

ernment seldom if ever deposes a chief, no matter how incompetent he may be. While this policy shows every consideration for the principle of traditional authority, it must be remembered that in the old days a ruler who proved permanently incompetent could be deposed by a revolt of the people—which the presence of British authority now prevents. Some serious efforts should be made to educate the sons of chiefs if tribal institutions are not to decay.[42]

Meanwhile, many commoners have received an education from the mission schools; and, organized into the Basutoland Progressive Association, they have, as we have seen, demanded the infusion of the democratic principle into tribal government. For a time, the chiefs attempted to suppress the meetings of this association; but it has found a kindly supporter in the person of Chief Jonathan who believes it will strengthen his position vis-à-vis his rival, the Paramount Chief.

But despite the gap between the educated and the traditional governing class, the "intellectuals" of Basutoland do not wish to abolish their chiefs in favor of the Transkei system of direct rule. They merely wish the introduction of the elective principle in the Pitso and the abolition of abuses in the administration of justice and in the imposition of tribute.

Whether commoners or kings, the Basuto people carry themselves like free men. Unlike the tribes who inhabit the Transkei, the Basutos were never conquered by British authority, but entered voluntarily under the present régime to escape the onslaughts of the Dutch. To-day the educated lads realize that the chiefs are a symbol of the Basuto nation and consequently must not be destroyed.

9. *The Development of Native Life*

In view of the overcrowded conditions of Basutoland, an agricultural and pastoral country, the improvement of native methods of production and of animal husbandry is of urgent importance. Agricultural experts believe that the adoption of modern methods, especially of ploughing, would increase the yield of native agriculture four times. Efforts in this direction are made by a Department of Agriculture which absorbs about nine per cent of the annual expenditures. But the present system of land tenure and over-crowding makes improvement difficult. The land shortage is so acute that the government has been unable to obtain land from the chiefs for the purpose of erecting an agricultural school. Soil erosion has also created a problem which the agricultural department is attempting to combat by afforestation.

[42] Cf. the efforts of Tanganyika and Sierre Leone, Vol. I, pp. 463, 867.

A veterinary surgeon attached to the Department of Agriculture and nine stock inspectors attempt to improve native stock and to free it from disease. In 1924, this staff, together with the Basutoland police, inoculated about 33,000 head of stock for rinderpest. In this work, the government employs seventy-nine native dipping supervisors. Along the frontier of the Orange Free State and Cape Colony, the government has made the dipping of sheep obligatory in order to prevent the spread of disease into the Union. In 1924, two hundred and twenty-five sheep and goats died from these dipping operations, a fact which, despite the compensation for such deaths paid by the government, leads to complaints. The natives are, however, now coming to appreciate the value of dipping and are demanding the speedy erection of more tanks.

10. *Medical Work*

According to the Estimates, the Basutoland Government employs nine medical officers and about fifteen European nurses, while it supports five native hospitals.[43] The government also expends nearly as much upon a leper settlement, treating about four hundred and sixty lepers, as upon the medical service proper. In 1924, fifty-eight persons were discharged from this settlement as arrested cases—an encouraging sign of progress. Compared with the Union, the Basutoland Government makes liberal provision for the medical needs of its population. While from the absolute standpoint much remains to be done, it should be remembered that Basutoland on account of its altitude is free from many of the tropical diseases which affect other parts of Africa and that consequently its needs are not as great.

11. *Education*

Basutoland expends an unusually high percentage of its revenue—about fifteen per cent—upon education.[44] But the only school which the government itself maintains is an Industrial School at Maseru, which trains natives to become carpenters, wagon-makers, etc. It is difficult to understand the motives which prompted the establishment of this school, inasmuch as Basutoland is exclusively an agricultural country and as the school's graduates can find no opportunities for employment in the Union on account of the Color Bar. The government pays the salaries of several officials—a director of education, an inspector of schools and two native inspectors, but the remainder of its expenditures take the form of grants-in-aid to private mission schools in the territory and of three

[43] Allowances are also paid to three private practioners.

[44] 35,105 pounds on education and 2,485 pounds on the Industrial School. Cf. Appendix III.

hundred pounds to the South African Native College at Fort Hare. In 1924, a grant of 21,538 pounds was made to the Paris Evangelical Mission Society, of 6,530 pounds to the Roman Catholic Mission, and of 3,315 pounds to the Church of England mission—a total of 31,373 pounds. The number of children enrolled in these various schools has increased from 14,171 [45] to almost forty-two thousand children, constituting a third of the school population—a percentage which appears to be higher than in any other British territory in Africa. The average attendance is, however, only about thirty thousand.[46]

In 1920, the government increased the native tax from one pound to one pound, five shillings, in order to increase the grants-in-aid to mission schools. In 1925, the High Commissioner proposed that still further expenditures be made on education, and that for this purpose an additional educational levy of two shillings per taxpayer should be imposed. The government was prepared to pay one quarter of the regular native tax together with the special levy into an education fund which, it was estimated, would yield a total of about forty-four thousand pounds. An educational fund was shortly thereafter established, based on a rate of three shillings per man, plus a quarter of the general tax.[47] Before putting this fund into use, the government asked the Colonial Office to send out an educational expert, Mr. F. M. Urling Smith, to study the needs of education in Basutoland. After visiting the country, Mr. Smith pointed out that practically all of the grants-in-aid to mission schools were expended on salaries and that consequently the equipment of the schools was for the most part inadequate.[48] This condition was due also to the fact that the missions were undertaking a more ambitious educational program than the financial situation warranted.

Despite the fact that these were mission schools, the teachers (who were practically all native) did not seriously attempt to "train the characters of the children committed to their care." Mr. Smith declared: "The inculcation of honesty, cleanness, truthfulness, sense of duty and responsibility, sympathy, kindness to animals, esprit-de-corps, seems to be almost entirely neglected." Some of these shortcomings were due to lack of European inspection and supervision. "The Roman Catholic Mission does more than the others to keep a watchful eye on, and give a helping hand to, its people." [49] The Basutoland Government exercised little control

[45] *Special Reports on Educational Subjects,* Cd. 7622 (1905), p. 49, Vol. 13. In 1903, the government expended 6,660 pounds on education.
[46] *Basutoland Report,* No. 294, 1925, p. 10.
[47] Basutoland Education Fund Proclamation, No. 13 of 1927.
[48] *Report on Native Education in Basutoland,* 1926, p. 17.
[49] P. 22.

over these schools. The director of education could give advice, but he could not insist on the "observance of regulations or syllabus of work; he can in no way control teachers or pupils in the schools; he cannot insist on seeing the accounts of schools, whether they receive government aid or not. . . ." [50] The report therefore recommended that the government assume complete control over the educational policy of the country; that it should consider the advisability of drawing up a new syllabus of work and itself conduct examinations; that no school should be given a grant which did not fulfil the requirements of the regulations in the matter of equipment and efficiency, as decided by the report of a European inspector. The report likewise suggested that the government consider the advisability of establishing its own training college for teachers.

Of the 495,000 people in Basutoland, about 136,000 or one-third profess to be Christians. The leading denomination is the Paris Evangelical Society whose missionaries first came to Basutoland in 1859, and who stood by them in their troubles with the Boers. The Catholics come next. The percentage of native Christians appears to be larger than in any other territory in continental Africa except possibly in South Africa, the colony (as distinct from the protectorate) of Sierre Leone and in Buganda.[51]

Despite these educational and religious efforts,[52] the improvement of native life in Basutoland is extremely difficult because of the withering influence of European industrialism which, as we have seen,[53] has cast the same plight upon Basutoland as upon the Transkei. Until the territory becomes more self-sufficient from the economic standpoint than it is at the present time, the prospect of developing a native institutional life is not particularly bright. The fate of the Basutoland native is thus bound up with the fate of the native in South Africa proper.

[50] P. 35.
[51] Cf. Index—Christians.
[52] The Basutoland government expends a larger proportion of its revenue upon native welfare than any other government in Africa, cf. the table, Vol. II, p. 889.
[53] Cf. Vol. I, p. 105.

CHAPTER 12

RELATIONS WITH THE UNION

APPARENTLY it was the intention of the authors of the Union of South Africa eventually to make certain that the destiny of the natives of the three Crown Protectorates of South Africa, Swaziland, Bechuanaland, and Basutoland, should be joined to that of the Union natives. Article 151 of the Act of Union, 1909, provides:

"The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General in Council may undertake the government of such territory upon the terms and conditions embodied in the schedule to this Act." [1]

The schedule provides that upon the transfer of these territories, legislation shall be made by proclamation of the Governor-General in Council—the Transkei system.[2] In administering these territories, the Prime Minister shall take the advice of a commission having at least three members who shall hold office for ten years and who shall not be removed during this period except upon addresses from both houses of parliament. If the Prime Minister does not accept a recommendation of the commission, he shall state his views and the record shall be laid by the Prime Minister before the Governor-General in Council, whose decision shall be final. In case the Governor-General does not accept the recommendation of the commission, the Prime Minister at the request of the commission shall lay the record before both houses of parliament unless the Governor-General believes that its publication would "be gravely detrimental to the public interest." [3] It is not clear whether the Governor-General has some discretion in exercising these powers, or whether he automatically follows the advice of the Prime Minister.

[1] These are covered by Article 150 of the Act.

[2] All such proclamations shall be laid within seven days before both houses of parliament which may request the Governor-General to repeal the same.

[3] The Permanent Native Affairs Commission for the Union, created in 1920, was apparently modelled after the commission outlined in this schedule, cf. Vol I, p. 114.

The Governor-General shall appoint a Resident Commissioner for each territory (as at present) who shall prepare annual Estimates for each territory which shall be forwarded to the Native Affairs Commission and to the Prime Minister.

All duties on goods imported into these territories shall be collected by the Union which shall advance toward the cost of administration of each territory a sum representing the value of the duties collected on goods imported into such territories.[4]

If the revenue of any of these territories is insufficient to meet the expenditure, the deficiency may be made good from the funds of any other territory, or by the Government of the Union. Surpluses shall be used in the first instance for the repayment of any sums previously advanced. All revenue shall be expended on behalf of the territory, except that the territory may be called upon to make a contribution to the cost of defense and other common services of the Union, but such a contribution shall not assume a higher proportion in the total cost of the Union expenditures than that which the customs payable to the territory bears to the total customs. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those territories. The sale of intoxicating liquors to the natives in these territories shall be prohibited. The custom of holding Pitsos or other forms of native assembly shall be recognized. No differential duties shall be levied. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa, subject to the pass laws.

Thus it would appear from this schedule that if and when the three protectorates are annexed to the Union, they should be given virtually the same form of administration as now exists in the Transkei. The people of South Africa have recurrently advocated the annexation of these protectorates. They have asserted, often without reason, that they are centers of cattle disease. On the other hand, the Union could not presumably continue to impose an embargo on Bechuanaland cattle, as it now does, if Bechuanaland came into the Union.[4a]

[4] Cf. Article 12, Schedule.

[4a] It is the policy of the Union government to prohibit the entrance of cattle from neighboring territories, except in case animals from Basutoland and Swaziland weigh not less than 800 pounds, and that animals from Bechuanaland weigh not less than 1000 pounds in the case of oxen and 750 pounds in the case of cows. Proclamation No. 40, 1926, *Government Gazette* Jan. 8, 1926.

The result of these restrictions has been severely to restrict the native cattle market of Bechuanaland. At the Bechuanaland Advisory Council, one chief said, "We wish principally to know what the future of the Protectorate is to be as the Union Government has stopped our cattle export trade." *Minutes of Native Advisory Council,* 1924, p. 3. The Bechuanaland Resident Commissioner was frank

Neither the natives of Basutoland nor of Bechuanaland want the type of administration which exists in the Transkei, since it fails to recognize chiefs, native courts, or communal land tenure—which are not, moreover, guaranteed in the Schedule to the South Africa Act. In 1908, the Basuto chiefs petitioned King Edward VII against entrance into the proposed Union.[5] In 1919, the Basutos sent a delegation to the King nominally to congratulate him on winning the war, but really to protest against joining the Union. In 1925, the Bechuanaland Advisory Council passed a resolution that the Schedule of the South Africa Act should be repealed or that His Majesty be graciously pleased to grant leave to the chiefs to proceed to England to explain why "that document is not fair to them." [6] The reason for these objections was stated by one chief as follows: "Foremost among our fears is that our Chief would lose his power. He would lose his power over his people and the right to his ground, and the Chief would only be recognized as a Chief when appointed by the Government. The power to allocate lands would be taken from the Chief and entrusted to Commissioners. The tax would be collected by these Commissioners, not by the Chiefs. The amounts paid yearly to the Chiefs in respect of Concessions, etc., will be taken from them and declared tribal moneys. . . . In the Union, Native Reserves are looked upon as Crown Lands, and regulations applying to Locations are made applicable to Native Reserves, whereas, in the Protectorate, Native Reserve and Crown Lands are two distinct things. . . ." [7]

Natives also oppose annexation out of the belief that the disabilities which now weigh upon Union natives would be extended to them. As one member of the Bechuanaland Council said, "We would like to spare our people in the Protectorate disabilities such as our people in the Union are under." Another chief said that the South Africans "talked about a Republic of their own." He continued: "They want their own flag. They talk of refusing honors from His Majesty the King. Since 1913, there has been in force in the Union an Act known as the Native Lands Act. We then realized that this Act was passed against the welfare of the native. They talk of segregation. The Transvaal Government does not allow natives to purchase land." [8]

Despite this opposition, the British Government, through the Imperial High Commissioner, apparently believes that amalgamation will soon come. In reply to the Basuto petition against inclusion in the Union, in 1908,

in telling the Council that the Union of South Africa had imposed this cattle embargo to protect the interests of the white farmers.

[5] For the petition, cf. Lagden, *cited*, p. 620.

[6] *Minutes of the Bechuanaland Native Advisory Council*, 1925.

[7] *Ibid.*, p. 6.

[8] *Ibid.*, p. 6 ff.

the Secretary of State, Lord Crewe, said: "His Majesty does not wish that there should be any immediate change, and no change will take place for some time, but he sees that, if South Africa is united, it will be desirable as well as necessary for the Basutos to be prepared some day to come under the same Government as the rest of South Africa."[9] A few years ago, the Duke of Connaught informed the natives of Bechuanaland that the Union Government was the government of the King; that the "Union was like the House of the King: four of his sons were already in that house, viz., the Cape, Natal, Orange Free State and Transvaal; that it would be a good thing for all sons of the King to enter that house in due course, but that there was no knowing when the transfer of the Bechuanaland Protectorate to the Union might take place. His Royal Highness said it might be in five or ten years' time or more. . . ." Lord Gladstone is reported to have said the same thing.[10]

Since the natives of the protectorate when in the Union are subject to the same disabilities as Union natives, it does not appear that annexation would alter their status in this respect, provided the schedule is observed. This proviso raises some important constitutional questions in regard to the force of Article 151 and the Schedule of the South Africa Act. In the first place, is the King, "with the advice of the Privy Council", automatically obliged to transfer to the Union, the government of these three protectorates at the request of both houses of the Union parliament? Under the present constitutional organization of the Empire, the Crown acts ordinarily upon the advice of the Ministers of the Dominions concerned. But in this particular instance, he is to act "on the advice of the Privy Council", which would imply that the British Government had some discretion in giving or withholding its consent to the transfer of these territories.

In the second place, once this transfer takes place, may the Union Parliament amend the Schedule so as to strike out the guarantees which this Schedule now contains? The Act provides that all bills to amend the Schedule shall be reserved for the significance of His Majesty's pleasure. But in this case His Majesty could apparently be obliged to follow the advice of the South Africa Ministers. Moreover, Article 152 of the South Africa Act provides that Parliament may by law repeal or alter any of the provisions of the Act.[11] It would appear therefore that the government of South Africa has the power to do away with the restrictions imposed by the Schedule.

[9] Lagden, *cited*, p. 624.
[10] *Minutes of Meeting of Native Advisory Council of Bechuanaland*, 1925, p. 11.
[11] Except for a number of provisions which do not include Article 151.

It thus appears that the Act of Union does not contain adequate guarantees that the three native Protectorates, upon being transferred to the Union, will remain native states. Such guarantees could be embodied in an intra-imperial agreement between the British and the South African Governments, following the precedent of the agreement between the Irish Free State and the British Government of 1921. In order to secure international recognition of its semi-independent status, South Africa might agree to register this agreement with the Secretariat of the League of Nations which would presumably give the natives of the three Protectorates a form of international guarantee which at present they do not have.[12]

[12] The British Government, however, protested to the League against the registration of this agreement, and its international status is therefore uncertain. Cf. *Manchester Guardian,* December 16 and 24, 1924.

APPENDICES—BASUTOLAND

II. Note on the Swaziland Concessions
III. Native Welfare Expenditures, Basutoland, Swaziland, and Bechuanaland

APPENDIX II

Note on the Swaziland Concessions

White settlers and prospectors first entered the territory of Swaziland, governed at that time by King Mbandini, in 1878. Nine years later they took steps to protect their interests by requesting the appointment of a British Resident. But no such action at that time was taken. Pressed by the whites, King Mbandini granted in 1888 a charter of self-government to the Europeans as far as their own affairs were concerned, subject to the King's veto. Theophilus Shepstone was appointed Advisor and Secretary to the King while the registered concessionaires elected fifteen property owners to a Government Committee which also contained five members nominated by the Chief. But this effort of the whites to establish an administration in cooperation with the Chief was soon overturned by native disturbances which led the British and the Transvaal governments to send to Swaziland a joint commission to report on the state of affairs. Upon its advice, the British and the Transvaal governments established a provisional commission to which was added Mr. Shepstone as the representative of the Swazis. In 1890 the King and Council of the Swazi nation enacted an Organic Proclamation authorizing this tripartite commission to control European affairs.

Between 1884 and his death in 1889 King Mbandini had granted a large number of concessions to Europeans in return for money and other payments. The South Africa Republic, apparently wishing to secure access to the sea across Swaziland, obtained concessions granting it the sole right to levy customs and licenses, to build telegraphs and railways, and to control all postal and survey services. In 1889 it secured what was known as the "Private Revenue Concession" which practically gave the holder the right to collect all private revenue of the King, including rents and duty on transfers of concessions, in return for an annual payment to the King of 12,000 pounds during four years. The Transvaal government made a net profit from this concession of over 9,000 pounds.

Four other kinds of concessions were granted by the King; those conveying land, mining rights, the right to graze stock, and to cut timber. "Practically the whole area of the country was covered two, three, or even four deep by concessions of all sizes, for different purposes, and for greatly varying periods. In but very few cases were even the boundaries defined; many of the areas had been subdivided and sold several times, and seldom were the boundaries of the superimposed areas even coterminous. In addition to this, concessions were granted for all lands and minerals previously unallotted, or which having been allotted, might lapse or become forfeited. Finally, it must be remembered

that over these three or four strata of conflicting interests, boundaries, and periods there had to be preserved the natural rights of the natives to live, move, cultivate, graze, and hunt."[1]

During the height of the concession régime, "The Paramount Chief was receiving an income, chiefly from concession rents, of 12,000 pounds annually, and the whole of this was squandered and thrown away by the ignorant and frequently drunken chiefs. There is to-day nothing whatever to show how this huge sum of probably not less altogether than 70,000 pounds was spent."[2] In 1899 Chief Bunu, the new occupant of the throne, died a victim of the vices in which the wealth from these concessions had enabled him to indulge.

In order to straighten out conflicts arising out of these concessions, the Organic Proclamation of 1890 authorized the establishment of a chief court, and empowered it to confirm the validity of disputed concessions. By a later Proclamation of the native king the court was authorized to confirm if necessary all concessions, whether disputed or not.

During the next three years this Court passed on these concessions but progress was practically impossible because of the fact that several of the most valuable concessions had been acquired by the South African Republic.

In 1893 the British government entered into a treaty with the South African Republic in which the latter government was given power to acquire from the Swazi nation an Organic Proclamation granting the South African Republic powers of legislation and jurisdiction over Swaziland—in other words, establishing a protectorate. When the Swazi chiefs did not sign such an Organic Proclamation, the British and South African government signed a new treaty virtually authorizing the South African Republic to establish a protectorate, without the consent of the Swazis.[3] The administration of the South African Republic during the next four years was marred by internal revolts, while it was practically withdrawn during the Boer War—leaving the Swazis to revert to their early condition. At the close of the War the British Government issued the Swaziland Order in Council, 1903,[4] transferring to the governor of the Transvaal the powers formerly exercised by the Republic of South Africa. An Order in Council, 1906, transferred this power to the High Commissioner for South Africa.[5]

Upon succeeding to the rights of the Transvaal government, the British government decided to expropriate the various monopolies held by individuals and it accomplished this in the 1904 Proclamation at a cost of £40,000 paid out of the revenues of the country. In 1905 it cancelled the Private Revenue Concession. Sums collected during the war period by the British authorities were placed in a Swazi Trust Fund.

In 1904 a Proclamation was promulgated which, in addition to establishing

[1] Swaziland, *Report for 1907-1908,* Col. No. 596, Cd. 4448-5, p. 13.
[2] *Report, cited,* p. 8.
[3] Convention of Dec. 10, 1894. Hertslet, *Map of Africa by Treaty,* Vol. III, p. 1031.
[4] *Statutory Rules and Orders,* 1903, p. 781. [5] *Ibid.,* 1906, p. 891.

an administration over the country, authorized the appointment of a Commission to inquire into the whole question of concessions. Its duty was to disentangle the confusion over concession boundaries and to define the rights and servitudes of concessions whose boundaries were approved. It was required to inquire into all monopolies granting exclusive rights and to report upon those which were considered vexatious or fraudulent.

In 1906 the Concessions Commission recommended a Settlement based on the principle that land should be preserved for the exclusive use of the natives in sufficient quantities not only for the present needs of the nation but for natural increase. It was estimated that one-third of the total area of the concessions, exclusive of mineral areas, taken together with those concessions formerly the property of the Transvaal government, would ensure to the natives the necessary land. Consequently, the Swaziland Crown Lands Order in Council, 1907, authorized the High Commissioner to make grants of Crown land which it defined as any land not being set aside as native reserves.[6] The Concessions Partition Proclamation was thereafter issued on October 19, 1907, which subjected all land and grazing concessions to a deduction without compensation of one-third of their area for the sole and exclusive use and occupation of the natives; the remainder was left with the concessionaires who now received freehold title from the Crown.

Although the European concessionaires did not complain against this settlement, the natives sent an unsuccessful deputation of protest to England.

Of the total area of Swaziland, 4,274,014 acres, 1,635,774 acres have been set aside for the exclusive use of the natives and they have, in addition, purchased 77,076 acres. The remainder of the country is either held by concessionaires whose concessions were confirmed by the Proclamation or is Crown land. The area of Crown land which remained after the Partition of 1907 amounted to 1,150,000 acres of which the Crown had alienated, up to 1925, about a million acres to Europeans.

Between 1907 and 1910 Swaziland borrowed £80,000 from Basutoland partly for the purpose of meeting payments in connection with the expropriations.

The validity of this settlement was challenged by the King of Swaziland in a case which was finally decided by the Judicial Committee of the Privy Council in 1926.[7] In this case, the King of Swaziland brought an action of ejectment against a European land owner whose lands originally formed part of a concession known as the "Unallotted Lands Concession" granted by the King of Swaziland in 1889 on an understanding that the rights of the existing native occupiers should be respected. In 1908 the concession was expropriated by the High Commissioner, who returned a portion of the concession to the former holder in the form of a freehold title.[8] The King in the name of the natives claimed that the rights of the native occupiers were not affected by this

[6] *Statutory Rules and Orders,* 1907, p. 180.
[7] Sobhuza II and Miller, *Law Reports, A. C.* 1926, p. 518.
[8] Part of the land was set aside as a native reserve.

transfer; but the Crown contended that when the land passed to the Crown and was then alienated, the rights of the natives were extinguished.

The King of Swaziland also argued that in succeeding to the rights of the South African Republic in Swaziland the British Crown secured no power beyond those stated in the convention of 1894, which provided that "the natives are guaranteed in their continued use and occupation of land now in their possession, and of all grazing or agricultural rights to which they are at present entitled. . . ."[9]

The Privy Council declined to accept the position that the power of the Crown to alienate land in this territory was controlled by the agreement of 1895. Their Lordships declared that the power of the Crown to alienate land "was exercised either under the Foreign Jurisdiction Act or as an Act of State, which cannot be questioned in a Court of Law. The Crown could not, excepting by statute, deprive itself of freedom to make Orders in Council, even when these were inconsistent with previous Orders." Their Lordships also said that "The true character of the native title to land throughout the Empire including South and West Africa was with local variations, a uniform one. . . ."[10] The notion of individual ownership is foreign to native ideas. Land belongs to the community and not to the individual. The title of the native community generally takes the form of a usufructuary right, a mere qualification of a burden on the radical or final title of whoever is sovereign. Obviously such a usufructuary right, however difficult to get rid of by ordinary methods of conveyancing, may be extinguished by the action of a paramount power which assumes possession of the entire control of the land."

It would appear that this judgment still further confuses the situation, since in the Tijani case the court held that the paramount power could not extinguish these usufructuary rights.

[9] Art. 3, Convention of December 10, 1894.

[10] Here they cite A. Tijani v. Secretary of South Nigeria, cf. Vol. I, p. 756.

APPENDIX III

NATIVE WELFARE EXPENDITURES IN BASUTOLAND, BECHUANALAND AND SWAZILAND (1925-26)

	Amount	Percent of Total Ordinary Expenditure [1]	Amount per 100 inhabitants [2]
BASUTOLAND			
Medical	£23,163	9.1	£ 4.26
Leper Colony	20,747	8.1	3.82
Total Medical	43,910	17.2	8.08
Agriculture	7,090	2.8	1.31
Veterinary	17,198	6.7	3.16
Total Vet. and Agr.	24,288	9.5	4.47
Education	39,915	15.7	7.35
Total Basutoland	108,113	42.4	19.90
BECHUANALAND			
Medical	6,909	7.3	4.37
Veterinary	10,129	10.7	6.40
Education	3,870	4.1	2.45
Total Bechuanaland	20,908	22.1	13.22
SWAZILAND			
Medical	5,859	7.0	5.15
Veterinary	13,062	15.7	11.48
Education [3]	4,146	5.0	3.64
Total Swaziland	23,067	27.7	20.27

[1] Percentages based on ordinary expenditures as follows: Basutoland, £255,510; Bechuanaland £94,667 and Swaziland £83,381.

[2] Figures based on populations as follows: Basutoland 543,078; Bechuanaland, 158,152 and Swaziland 113,772.

[3] Does not include estimated £2,000 spent for schools for European children.

SECTION III

THE RHODESIAS AND NYASALAND

CHAPTER 13

SOUTHERN RHODESIA

BETWEEN South Africa and the Belgian Congo stretches a belt of country which was the object of the envious eyes of both Portugal, Germany and the British Empire a number of years ago.[1] The winner of the struggle was the British Empire which today claims within its domain the Colony of Southern Rhodesia, and the Protectorates of Northern Rhodesia and of Nyasaland.

Parts of all three of these territories resemble South Africa in climate and geography, and hence have attracted white settlers. In the Rhodesias valuable gold, coal and zinc mines will be found. Both the farmer and the miner have been dependent upon native labor; both have required land. Consequently, they have been obliged to meet, even if on a much smaller scale, the same racial problems as has South Africa.

1. *Lobengula and the South Africa Company*

Before 1898, the territory now known as Southern Rhodesia—named after Cecil Rhodes—consisted of two regions called Matabelaland and Mashonaland, inhabited respectively by two native nations or tribes of that name. The largest group, the Matabeles, was governed by a notable chief, named Lobengula. They were an offshoot of the bloody Zulus who came north and occupied this country in the early part of the nineteenth century. For a while, the Matabele warriors periodically raided the Mashonas—as a result of which the country was periodically bathed in blood. About 1880, European concession hunters came roaming through Lobengula's country in a thirsty search for claims. But the agents of Cecil Rhodes, that great imperialist, outwitted them all by securing two concessions—the Rudd and Lippert concessions—upon the basis of which the company which Rhodes formed, called the British South Africa Company, took over Lobengula's country.

Too timid to administer the country itself, the British Government granted a charter to the South Africa Company, in 1889,[2] which author-

[1] Cf. H. M. Hole, *The Making of Rhodesia*, London, 1926, Chs. XVI, XVII.

[2] The text is given in *The Statute Law of Southern Rhodesia*, from the Charter to December 31, 1910, p. 1.

ized it "to acquire by any concession, agreement, grant or treaty, all or any rights, interests, authorities, jurisdiction and powers of any kind or nature whatever, including powers necessary for the purpose of government and the preservation of public order."

Until 1894, Lobengula was, however, viewed as an independent ruler, upon whose territory British officials merely exercised certain powers over Europeans.[3] But in 1892, the Matebele rebelled, apparently because incoming settlers had taken their land. The uprising was soon suppressed and Lobengula's government destroyed.[4] In 1894, the company established direct administration over the country, under the control of an administrator and Council of Four. The appointment of these and other officials was subject to the approval of the Secretary of State.[5]

In 1896, another rebellion occurred, again provoked apparently by the land and other questions. It was followed by the Southern Rhodesia Order in Council, 1898, which not only created a Legislative Council, having nominated and elected members, but also established a Resident Commissioner as a representative of the British Government, with certain powers with respect to the Company Administrator. The Resident Commissioner submitted all ordinances enacted by the Southern Rhodesia Legislative Council to the Imperial High Commissioner then at Cape Town and later at Pretoria. The High Commissioner had certain powers relating to the settlement of natives on the land, to be discussed later. He could refer any question relating to natives for investigation and report by any judge of the High Court, and the High Commissioner would act with reference to any such report as he thought fit. The appointment of a Secretary of Native Affairs, and all Native Affairs officials, was subject to the approval of the High Commissioner. Their salaries were fixed by the Governor subject also to the High Commissioner's approval. In all these matters, the High Commissioner was advised by the Resident Commissioner. The company government could not impose any disabilities upon the natives which did not equally apply to Europeans, without the previous consent of the Secretary of State, save in respect of the supply of arms, ammunition, and liquor.[6]

[3] In 1891, the British Government issued the Mashonaland Order in Council, authorizing the High Commissioner (at Capetown) to exercise whatever powers Her Majesty had in the territory. No land title could be valid without his approval.

[4] Serious charges have been made that local officials of the company deliberately picked a quarrel with the tribes in order to gain control of the country. Cf. John H. Harris, *The Chartered Millions,* London, 1921, Part III.

[5] Cf. Order of Council of 1894, C. 8773, p. 13, which was based upon an agreement between the government and the company.

[6] This provision originally appeared in the Order in Council of 1894. An interesting question arises in regard to racial disabilities in an Immorality and Inde-

Thus down until 1923, the South Africa Company ruled Southern Rhodesia through a Company Administrator who was a substitute for a Governor, and through a Legislative Council. Its administration was controlled, as far as native affairs were concerned, by the Imperial High Commissioner, represented in Southern Rhodesia by a Resident Commissioner, ranking second to the Company Administrator.

In addition to its administrative activities, the Company carried on great commercial undertakings. It operated cattle ranches and citrus estates; while it held a proprietary interest in the Rhodesia and Mashonaland Railways, and a monopoly of mining rights. So heavy were capital investments during this period, that the Company did not pay a single dividend before the settlement of 1924. On the contrary, it was obliged to make advances to cover administrative deficits.

2. *The Settlers and the Company*

Meanwhile, Rhodesia gradually acquired a white population, which in 1921 numbered about 34,000 souls, many of whom were farmers who had acquired land from the company government. From the beginning, the European population found itself in opposition to the Company Administrator who took his orders from a London Board. When the settlers were given four elected members in the Legislative Council (with an official majority of five) in 1898, opposition for a time subsided. But the death of Mr. Rhodes who had served as a link between the London Board and the administration on the spot, created apprehension; and conflicts soon arose between the official majority and the settlers' representatives. In 1903, the Company agreed to accept a Legislative Council of seven official and seven elected members. In order to protect the financial position of the Company, the 1903 Order provided that should the Legislative Council fail to pass the Estimates, the Administrator could continue to expend public revenue essential for administration.[7]

In 1904, another Order, aimed at the same end, provided that no fiscal vote should be proposed in the Council except by the Administrator.[8] At this time, the annual deficit amounted to between two hundred fifty thousand and three hundred thousand pounds, which led the settlers, who were obliged to pay taxes, to criticize the administration as extravagant and to

cency Act, passed by the Legislature in 1916 (*Statute Law of Southern Rhodesia,* 1911-1922, p. 373), which prohibits white women from soliciting natives, and natives from soliciting white men, but does not prohibit white men from soliciting native girls.

[7] Southern Rhodesia, Order in Council, 1903, *The Statute Law of Southern Rhodesia,* From the Charter to 1910, p. 42.

[8] Southern Rhodesia Order in Council, 1904, *ibid.,* p. 43.

move the reduction of salaries of the company officials in the Legislative Council—an effort blocked by the 1904 Order. The settlers also accused the Company of misapplying administrative revenue by putting it into commercial accounts.[9] Their antagonism was further aroused when the Company proposed to raise a loan of five million pounds, the proceeds of which were to go to the Company to cover past deficits. At a conference held at Salisbury, the capital, a mass meeting resolved that the administrative rights of the Company should come to an end. Settlers also demanded the establishment of an elective majority as a step toward responsible government. A deputation was sent to London to negotiate in regard to outstanding differences; but it was unsuccessful. In October, 1907, a number of directors visited Southern Rhodesia where they gave a pledge that to bridge the period up to the grant of self-government they would apply to the Crown for an Order in Council reducing the nominated members to five, but on condition that the position of the Company in fiscal matters should be protected.

A serious difference of opinion now arose between the Company and the Crown over the meaning of this reservation as to finances. The Company at first insisted that the Administrator should retain his power to make expenditures in case the Council refused to vote the Estimates. But the Colonial Office took the position that this would nullify the whole idea of an elected majority and that the financial position of the Company would be adequately protected by a provision that the council should consider no appropriation nor legislation interfering with the land and other rights of the Company without first obtaining the approval of the Administrator. The Company finally gave way,[10] and the Crown issued an Order in Council the stated purpose of which was "to ensure to the Company the control of financial matters while preserving to members of the Legislative Council full liberty of discussion and debate." It attained this end by authorizing seven elected members as opposed to five company members on the council, subject to the reservations discussed above in connection with financial and land legislation.[11]

In 1913, the number of elected members was increased to twelve and that of nominated members to six. In 1917, the number of elected members was increased to thirteen.

Since the term of the Company charter was only for twenty-five years, Company rule should have come to an end in 1914. But at the time, the Imperial Government, with the concurrence of the Legislative Council,

[9] Cf. P. F. Hone, *Southern Rhodesia,* London, 1909, Chs. IV-VII.

[10] *Correspondence Relating to the Constitution of Southern Rhodesia,* Cd. 7264 (1914).

[11] Southern Rhodesia Order in Council, 1911, *Statute Laws,* 1911-1922, *cited,* p. 1.

agreed [12] to extend the life of the charter for a maximum period of ten years. The charter, nevertheless, could be modified if the Legislative Council asked the Crown to establish "responsible" government—a request which must be supported with proof of fitness "financial and otherwise" to carry on such a system. Apparently the settlers agreed to prolongation of Company rule in the belief that the only alternative was incorporation in the Union of South Africa, then distasteful to them, owing to the strife between British and Boers.

3. *Status of Unalienated Land*

About this time the Company, having accumulated a deficit of £7,750,000, declared that a new government would not be obliged to take over this deficit, inasmuch as the Company would retain the minerals and the land of the territory. The claim of the Company to the land rights of Southern Rhodesia had been opposed by the settlers as early as 1908. When the Company renewed their claim as an offset to the deficit, the Legislative Council in 1914 passed a resolution saying that the ownership of unalienated land was not vested in the Company as its private property; but that its powers over the land were conferred by the Crown on the Company merely as a governing body for the time being responsible for the administration of the country, and that the residual rights in the land would therefore pass to the Crown upon the termination of the company rule. On the other hand, humanitarian interests in England, represented by the Anti-Slavery and Aborigines Protection Society, took the position that the lands belonged neither to the Company as such nor to the government of the country, but to the native population.[13]

This question was referred by Order in Council to the Judicial Committee of the Privy Council for an advisory opinion. This body handed down an important opinion in 1918, which appears to form the legal basis of British land policy in East Africa today.

The argument advanced in behalf of the natives was that they were the owners of the unalienated lands long before either the Company or the Crown became concerned with them and that their titles could not be divested without legislation which had never been passed, or their consent which had never been given, and that the unalienated lands belonged to them still. Hence, if the Company had any title at all, which was denied, it

[12] Supplemental Charter, March 2, 1915, *ibid.*, p. 36.

[13] Cf. Extracts from the Argument of Mr. Leslie Scott, in *The Struggle for Native Rights in Rhodesia*, published by The Anti-Slavery and Aborigines Protection Society, London, 1918.

was only the title of a trustee, the beneficial interest remaining in the natives and the legal title and rights to possession reverting to them whenever the Company cease to govern the country.[14]

In reply to this argument, their Lordships declared that "it was really a matter of conjecture to say what the rights of the original 'natives' were and who the present 'natives' were, who claimed to be their successors in those rights." Emigration and immigration had occurred. Moreover, the land was communal. They stated that, "In any case, it was necessary that the argument should go the length of showing that the rights, whatever they exactly were, belonged to the category of rights of private property, such that upon a conquest it is to be presumed, in the absence of express confiscation or of subsequent exproprietory legislation, that the conqueror has respected them and forborne to diminish or modify them."

Moreover,

"The estimation of the rights of aboriginal tribes is always inherently difficult. Some tribes are so low in the scale of social organisation that their usages and conceptions of rights and duties are not to be reconciled with the institutions or the legal ideas of civilized society. Such a gulf cannot be bridged. It would be idle to impute to such people some shadow of the rights known to our law, and then to transmute it into the substance of transferable rights of property as we know them. In the present case it would make each and every person by a fictional inheritance a landed proprietor 'richer than all his tribe.' On the other hand, there are indigenous peoples, whose legal conceptions though differently developed are hardly less precise than our own. When once they have been studied and understood, they are no less enforceable than rights arising under English law. Between the two there is a wide tract of much ethnological interest, but the position of the natives of Southern Rhodesia within it is very uncertain; clearly they approximate rather to the lower than to the higher limit. . . . If the native holdings under Lobengula were not in the nature of private rights, . . . they were at the disposal of the Crown when Lobengula fled and his dominions were conquered; if they were, any actual disposition of them by the Crown upon a conquest, whether immediately in 1894 or four years later, would suffice to extinguish them as manifesting an intention expressly to exercise the right to do so. . . . The Company's alienations by grant are unquestionably valid, yet the natives have no share in them. . . . By the will of the Crown, and in exercise of its rights the old state of things whatever its exact nature, as it was before 1893, has passed away and another and, as their Lordships do not doubt, a better has been established in lieu of it. Whoever now owns the unalienated lands, the natives do not."

The British South Africa Company based its claims upon the Rudd concession granted by Lobengula, and upon the Lippert concession which

[14] Law Reports, A. C. 1919, p. 211.

the Company later acquired. It was the contention of the Company that the King in these two concessions "sold his country out and out to the company." But their Lordships would not accept this argument. The rights transferred by Lobengula, apart from the mines, were only administrative rights. "As a title deed to the unalienated lands it is valueless." The Company also based its claims upon occupation and contended that since the Crown had not annexed the territory concerned, it could not claim the land. On this point, their Lordships made an interesting statement:

"No doubt a proclamation annexing a conquered territory is a well understood mode in which a conquering power announces its will *urbi et orbi.* It has all the advantages (and the disadvantages) of publicity and precision. But it is only declaratory of a state of fact. In itself it is no more indispensable than is a declaration of war at the commencement of hostilities. As between State and State special authority may attach to this formal manner of announcing the exercise of sovereign rights, but the present question does not arise between State and State. It is one between sovereign and subject. . . . The fact being established that a conquest of Lobengula and his dominions had occurred, the question is what Her Majesty's Government thereupon elected and intended to do in Her Majesty's name. It cannot be said that not to annex forthwith was a renunciation of all right to annex at any time, or that a disposition of the public lands in the conquered territories, as ample as if formal annexation had taken place, is less operative than if that form had been employed. The true view seems to be that if, when the Protecting Power of 1891 became the conquering power in 1893, and that under the Orders in Council of 1894 and 1898 set up by its own authority its own appointee as administrator, and sanctioned a land system of white settlement and of native reserves, it was intended that the Crown should assume and exercise the right to dispose of the whole of the land not then in private ownership, then it made itself owner of the land to all intents and purposes as completely as any sovereign can be the owners of land, which are *publici juris,* and that the forms of an annexation to itself followed by a grant and conveyance to others for the purpose of grants over to settlers do not avail by their presence or their absence to affect the substance of these acts of State."

While their Lordships were of the opinion that the Company merely held these lands in an administrative capacity and consequently could not retain them upon giving up the government of Rhodesia, they did state that "If in the exercise of the authority conferred, the party authorized is obliged to expend his own moneys in the discharge of the authority conferred upon him, it is incident to the relationship, that he is entitled to

look to his principal and employer for reimbursement. . . ."[15] It declared that in this event, the Company had the right to look to the Crown to secure to it, "either out of the proceeds of further sales of the lands, by whomsoever made, or if the Crown should grant away these lands or proceeds to others, then from public funds, the due reimbursement of any outstanding balance of aggregated advances made by it for necessary and proper expenditure upon the public administration of Southern Rhodesia."

In other words, while the Company could not claim ownership of the unalienated land, it could claim from the Crown the administrative deficit incurred.

Thus in this opinion, the Judicial Committee makes a distinction between native conceptions of land tenure which are "low" and those which are "high." Those tribes whose conceptions of land tenure approach European conception may secure the enforcement of their rights by British courts. But the land of more primitive people will not receive such protection. It does not appear, however, that their Lordships made any exhaustive inquiries into the land system of the Matabele to determine into what category it fell. They failed to recognize that in a community where the prevailing tenure was communal, a native might hold land according to individual tenure.[16] During the discussions in regard to the Rhodesian land question, the Anti-Slavery and Aborigines Protection Society in England proposed that natives who could prove twenty years' beneficial occupancy of land outside of the reserves should remain undisturbed; a suggestion which was, however, not adopted by the Colonial Office.[17] The attitude of the Privy Council in ignoring all native rights in this case is in striking contrast to its judgment three years later in the Olowa land case in Nigeria where it held that the Crown was obliged to respect the usufructuary rights of native communities in the land.[18] The Nigeria judgment makes no distinction between primitive and more advanced conceptions of land tenure. While it does not grant to natives the rights known to British law, it states that the usufructuary rights of the natives in the land should be respected. In the Rhodesia case, their Lord-

[15] Cf. p. 25.

[16] Cf. S. Olivier, "Are We Going to Act Justly in Africa," Vol. iii, *Contemporary Review,* (1920) p. 198. Also "Native Land Rights in Rhodesia," *ibid.,* August, 1926.

[17] The Court apparently went beyond the Case for the Crown, which said, "It is submitted that as regards the natives as a class and as distinguished from individuals who have acquired or retained any right in any individual plot or plots of land their rights are those and only those which have been conferred by Her late Majesty or Her Successors by Order in Council or by Proclamation Ordinances or regulation made by authority of an Order or Orders in Council."

[18] Cf. Vol. I, p. 755.

ships sweep away all such rights in favor of the Crown.[19] It is, therefore, a matter of policy what lands should be used by the natives and upon what terms. Obviously, this judgment has great political importance. Assuming that native conceptions of land tenure in other parts of East Africa are the same as in Rhodesia, the Crown may as a result of this opinion herd natives into reserves or deprive them by other means of the land which they formally occupied, and alienate such land to white settlers. Under the law laid down by the Privy Council for West Africa, it seems that such alienations would not be legal.[20]

4. *Native Reserves*

In its original charter, the South Africa Company was obliged to pay "careful regard to the customs and laws of the class or tribe or nation, to which the parties respectively belong, especially with regard to the holding, possession, transfer and disposition of lands . . . but subject to any British laws which may be in force in any of the territories." [21]

It does not appear, moreover, that the Company paid any attention to these provisions. European settlers poured into the country about 1890, and received large grants of land. According to a recent commission, "The Matabele began to feel the pressure of European settlement within a very few months after the occupation. By the middle of 1894, practically the whole of the gold belt areas of Matabeleland had been alienated to companies or individuals, and although a large number of the farms granted were not at first actually occupied, it became necessary to consider the desirability of demarcating areas in other parts of the country which should be reserved from European occupation, and where the natives could live according to their own tribal system." [22] In another attempt to make the Company respect the interests of the natives, the Crown issued an Order in Council of 1894 which provided for the appointment of a Land Commission which should assign to the natives of Matabeleland "land sufficient for their occupation whether as tribes or portions of tribes, and suitable for their agricultural and pastoral requirements, including in all cases a fair and equitable proportion of springs and permanent water." This commission found that the company government had already alienated so much land to Europeans upon which natives had resided that it would be necessary to provide natives with lands away from their original homes.

[19] Cf. Vol. I, p. 313, for the Masai case which is also inconsistent in certain respects. [20] Cf. Vol. I, p. 199, for the 1926 Swaziland judgment.

[21] Para. 14, Charter of October 28, 1889. As far as land is concerned this provision was overruled by Article 81 of the Order in Council of 1898.

[22] *Interim Report,* "Southern Rhodesian Native Reserves Commission," 1915, Cd. 8674, p. 7.

Consequently, it decided to set aside two large tracts (the Shangani and the Gwaai Reserves), estimated to have an area of six thousand five hundred square miles. "Partly owing to their natural aversion from abandoning districts which they had occupied for several generations, and partly because of the distance of the reserves from their existing kraals, the Matabele did not at once, nor indeed for many years, avail themselves of the Gwaai and Shangani Reserves, and no efforts were made by the Government to induce them to settle on the ground provided for them." [23] Following the Matabele Rebellion—which had been caused in part by this land policy—the Company reached a compromise with the natives by which some of them were allowed to remain on European property. But with the increase of European immigration, this property became more and more occupied. Although some of the settlers made tenancy agreements with the natives, others demanded that the natives move off the land. In the meantime, the company collected quitrent. But many of the natives still declined to go to the Shangani and Gwaai Reserves; and consequently the administration finally instructed the district commissioners to make recommendations in regard to sufficient land for the natives in their respective districts. They were instructed to base their recommendations upon the average amount of nine acres of arable land per man allowed under the Glen Grey Act of Cape Colony. The native commissioners attempted this time to leave the tribes as far as possible undisturbed; "but in some districts they were faced with the difficulty of finding any suitable land that had not already been alienated." Consequently, in certain cases, they created a number of small reserves sandwiched in between European farms. In 1902, the Executive Council of the Company definitely approved these recommendations, but no boundaries were actually delimited.

In later years, difficulties arose over the fact that the areas selected by the commissioners could not be satisfactorily located. The area of these districts in some cases had also been under-estimated. Thus the commissioners thought that the Sabi reserve contained only four hundred thousand acres; but a later survey showed that it contained 1,554,000 acres. Moreover, many natives continued to live upon European farms where the rapid increase of native stock soon cut into the pasturage wanted for European herds. Many farmers therefore served notice on the natives to leave. A number of settlers and other officials asked that the reserves be cut down.

This situation led the British Government to make an agreement in

[23] *Report, cited,* p. 6.

1913 with the South Africa Company for the appointment of a commission to inquire whether the reserves were sufficient for the requirements of the natives, having regard for present needs and also for probable future necessities consequent upon the spread of white settlement.[24]

After making a thorough survey of the country, this commission cut down the existing area of the reserves by about a million acres[25] and regrouped some of the districts so as to separate more definitely white from native acres, which meant the eviction of thirty-five thousand natives. The findings of this commission were attacked on the ground that its members had at one time or another been in the employ of the chartered company.[26] The most specific criticism, however, was made against the proposal of the commission to deprive the Sabi reserve of a belt of land twelve miles wide, amounting to 291,800 acres, which should be utilized for a railroad right-of-way.[27] The critics of this proposal said that this much land was not needed for the railway but was needed for the natives inasmuch as only one-third of the Sabi reserve was good land.[27a]

In 1920, an Order in Council was issued, vesting the reserves as finally defined in the High Commissioner (at Pretoria) and setting them "apart for the sole and exclusive use and occupation of the native inhabitants of Southern Rhodesia." No person other than a native may occupy any portion of a reserve except by special permission given by the administration, with the approval of the High Commissioner.[28]

By this means, the protection of the reserves is placed not only under the Government of Southern Rhodesia but also under the representative of the British Crown. This Order in Council gives to natives of Southern Rhodesia one hundred and four native reserves ranging from five thousand acres to 3,475,170 acres in size, and having a total area of twenty-two million acres. On the other hand, the government has alienated about thirty-one million acres to Europeans. About forty-three million acres remain for future allocation.[29]

The reserves of Southern Rhodesia are nearly as large as those of the

[24] Cd. 8674, *cited*, p. 3. The Commission in its report rejected the idea that "as the native population increases, every individual is to retain an indefeasible right to land sufficient for his occupation and suitable for his agricultural and pastoral requirements according to the primitive methods of native life." For this would eventually give them the whole of Southern Rhodesia.

[25] *Ibid.*, p. 24.

[26] *Correspondence with the Anti-Slavery and Aborigines Protection Society.* Cmd. 547 (1920).

[27] *Report, cited*, p. 44.

[27a] Cf. A. S. Cripps, *The Sabi Reserve*, Oxford, 1920.

[28] Southern Rhodesia Order in Council, 1920. Cmd. 1042 (1920).

[29] In 1925, the Rhodesia Legislative Council passed a Native Reserves Augmentation Act which extended the native reserves in the Wankie and Inyanga districts. *Statute Law, cited*, 1925, p. 10.

Union of South Africa although the Union of South Africa has nearly six times the native population of Rhodesia. Taking native population into consideration, the Rhodesia reserves are proportionately about twice the size of those of Kenya.[30] Rhodesia natives also have more land per capita than the natives of Basutoland and of the Transkei.

While therefore the Rhodesian natives have not fared badly from the standpoint of the quantity of land, the fact remains that in some cases they have been dispossessed of land traditionally regarded by them as their homes, and in which what European law would regard as "rights" had been vested. As a result of these reserves, natives have been obliged—and without compensation—to move off land which they have occupied for generations.

5. *Native Land Purchases*

Notwithstanding the creation of these reserves, the Order in Council of 1898 authorized natives to buy land upon the same basis as the whites.[31] While it appears that the Chartered Company declined to alienate land to natives, some of them made purchases from Europeans before 1925 amounting to forty-five thousand acres. In 1911, the Native Affairs Committee of Inquiry reported that there was "a wide-spread feeling that natives should not acquire possession of land in the neighbourhood of farms occupied by Europeans." It recommended that natives for the present should not acquire land outside the reserves.[32]

At the time when the new constitution was being drafted in 1921, the Southern Rhodesia delegates suggested to the Colonial Office that the High Commissioner set aside specific districts in which natives alone might acquire land—the principle of the South Africa Land Act, 1913.[33] But the Secretary of State for Colonies replied that the present policy enshrined a long accepted principle and he would be unwilling to agree to an alteration, the corollary of which seemed to be the exclusion of natives from other areas; but that if full and impartial enquiry should show, after Responsible Government had come into force, that some amendment of the law was necessary, His Majesty's Government would be prepared to consider an amendment.[34]

Following the recommendations of the Chief Native Commissioner and a resolution of the Legislative Council in 1919-21 the Governor of Southern Rhodesia appointed in 1925 a commission to conduct this "full

[30] Cf. Vol. I, p. 322.
[31] Article 83. But no contract alienating native property is valid without administrative consent.
[32] *Report*, A. 12-1911, p. 10.
[33] Cf. Vol. I, p. 82.
[34] Cmd. 1573 (1922), p.4.

and impartial inquiry." The Commission reported that the principle of segregation was favored by the European farmer who "considers that his stock and produce will be endangered by the proximity of Native land holders, whose less progressive and careless methods will spread disease among his crops and cattle. . . ." It continued, ". . . in many cases he suspects the honesty of the Native, and fears that his crops and implements will be stolen; and he objects from social reasons to the Native as a neighbour; moreover, he has no doubt that his land will depreciate in value if a Native buys a neighbouring farm."

The Commission further declared: "The Native . . . prefers to live among his own people, and has no wish to acquire land among white people if he can obtain suitable land elsewhere; he dreads the trouble which arises from the white man not understanding him, and the worry to which he is subjected by the impounding of his straying flocks and herds, with the consequent expense he is put to in releasing them from the pound; in many cases he realizes the growing difficulty of obtaining land in competition with the whites." [35]

It was the opinion of the Commission that "until the Native has advanced very much further on the paths of civilization, it is better that the points of contact in this respect between the two races should be reduced, and a lengthy period afforded for the study of the whole question of the future of the relations between the two races, in an atmosphere which is freed as far as possible from the set-backs which would ensue from the irritation and conflicts arising from the constant close proximity of members of races of different habits, ideals and outlook upon life."

The Commission believed that inasmuch as forty-three million acres remained for disposal, the setting apart of separate areas would be a practicable proposition and that "Southern Rhodesia is in a very fortunate position compared with the Union of South Africa in being able to give effect to a policy which the bulk of its inhabitants so clearly desire." [36]

Consequently the Commission recommended that Europeans should be allowed the exclusive right to purchase land in what are now predominantly white areas; while the natives should be allowed to acquire land in or near to districts where they now reside, which usually means

[35] *Report of the Land Commission*, 1925, C.S.R. 3-1926, p. 4.

[36] The Commission stated that if no restrictions were imposed, "Although in the aggregate the amount of land purchased by Natives for some years to come may not be considerable, yet such purchases would be scattered throughout the country, and might seriously retard the influx of settlers, who would be unwilling to come to a district where, after they had expended capital in making a home among people of their own race, they might at any time be confronted with neighbors of the other race; as settlement becomes closer, so would such proximity be felt to be more objectionable."

adjoining existing native reserves, so that eventually both the reserves and the purchase areas will support the same native community, having the same native institutions. The Commission proposed "native purchase" areas of 6,851,876 acres and European areas of 17,423,815 acres. Including existing reserves and holdings, this settlement would mean that the European area of Rhodesia would represent approximately 62 per cent of the total and the native areas, 37 per cent. In return for getting a real right of purchase, the natives would surrender the potential right of purchasing land in any other part of Rhodesia, which has been little realized in the past, and the uncontrolled exercise of which in the future might cause racial conflict. If this settlement is carried into effect,[37] the natives will, within these limits, gradually extend their reserves and develop farms of their own. The adoption of this policy is much more probable in Southern Rhodesia than in the Union of South Africa. It is a policy which Kenya should seriously consider before it is too late.

6. *Rhodesia's New Constitution*

Following the judgment of the Privy Council to the effect that the Company should be reimbursed for the net deficit incurred during its administration, the British Government appointed the Cave Commission to determine what the exact sum should be. Originally, the Company stated that the deficit, with accumulated interest, amounted to 7,866,000 pounds. The Cave Commission, however, rejected the claim for interest and as a result of its recommendation the Crown made an agreement with the Company in which it took over the administration of the territory, and agreed to pay the sum of 3,750,000 pounds,[38] which the Company agreed to accept in full discharge of its claims in Southern Rhodesia for administrative deficits. The Company retained the lands which it was developing on a commercial basis, and all mineral rights.[39]

Following this payment, the assets of the British South Africa Company stood at 7,065,000 pounds. In addition, it possesses 1,732,055 Rhodesia Railway Trust shares at one pound each upon which a dividend of four per cent is paid. It also owns mineral rights which yielded a net income in the year ending March 31, 1922, of 129,000 pounds. Finally, it possesses land amounting to 10,195,000 acres. Of this, more than four million are in Southern Rhodesia, about 2,760,000 are in Northern Rhodesia, and about 2,500,000 are in Nyasaland. Likewise the Company

[37] The consent of the home government is necessary inasmuch as the purchase clause is in the Rhodesian constitution.

[38] Cf. also *Directors' Report and Accounts.* The British South Africa Company, July 24, 1924.

[39] For the text of the agreement, cf. Cmd. 1894 (1923).

receives half of the revenue derived from future sales of land in Northwestern Rhodesia for forty years.[40] The Company also holds nearly seven hundred thousand acres in Bechuanaland. The issued capital of the Company is nearly nine million pounds. It will thus be seen that the liquid assets of the Company amount to about 65 per cent of the issued capital.[41] The value of the frozen assets is probably much greater than that of the liquid assets. It appears that sooner or later the South Africa Company will realize great profits from its holdings. In fact, the vast holdings of this Company which controls the Rhodesian railway and owns all mining rights, casts a shadow over the future of the country.

Meanwhile some of the European population had been agitating for responsible government, while others, influenced by General Smuts' party, attempted to induce Rhodesia to become a fifth province in the Union of South Africa—a suggestion which was rejected in a referendum of October, 1922, by a majority of about 2,780 in favor of responsible government.[42]

One of the difficulties in granting responsible government to the thirty-four thousand Europeans inhabiting Rhodesia was the question of native affairs. Could this European minority be entrusted with complete control over the eight hundred thousand native inhabitants of the country? A commission, headed by Lord Buxton, believed that a local government could be safely entrusted with the responsibility, provided its exercise was subject to outside control similar to that established over the former Company Government or that established by the Crown in the constitution granting self-government to Natal in 1893.[43]

As a result of the recommendation of this commission, the Crown maintained, in the constitution granted in 1923, all of the old provisions in regard to the appointment and removal of native affairs officials, and the investigation of native questions by the judge of the high court.[44] In addition, the constitution provides that the Governor of Southern Rhodesia must forward to the High Commissioner any information relating to native affairs which the High Commissioner may request. The position of the Resident Commissioner, which existed under the Company, is, however, abolished. The native reserves are also placed under Imperial guarantee of a stronger type than exists in Kenya.[45]

These restrictions upon the Chartered Company in the past may ex-

[40] Cf. Vol. I, p. 326.

[41] *The Times,* (London), July 18, 1923, p. 17, col. b.

[42] Inasmuch as the history of this question of responsible government does not immediately concern the native problem, we cannot go into the details here. Excellent accounts are given in the numbers of the *Round Table* covering the period.

[43] Lord Buxton's Committee's Report, Cmd. 1273 (1921).

[44] *Statutory Rules and Orders,* 1923, p. 1078.

[45] Cf. Vol. I, p. 321.

plain the superior position which, from the native standpoint, Rhodesia occupies to-day in comparison with South Africa or of Kenya.[46]

7. *Distribution of Natives*

The native population of Southern Rhodesia is distributed as follows:

Native Population

On the reserves	532,737
On European farms	122,460
On Crown Land	151,912
On mines and in towns, etc.	27,364
Total native population	834,473[47]

Natives living on European farms are subject to the Private Locations Ordinance, 1910,[48] which provides that every land holder must enter into a written agreement with natives residing on his land. The native commissioner may remove from a location any native who refuses to enter into such an agreement. Every landlord must take out a license in respect of every adult male residing in the location—one shilling a male if the landlord actually occupies the land, two shillings otherwise. No license shall authorize more than forty adults to occupy a location having an area of fifteen hundred morgen.[49] Unlike the Kenya and South Africa squatter legislation, the Rhodesia law does not require a native to perform service for a stated number of days a year. The Native Affairs Committee of Inquiry of 1911 considered that the Rhodesia ordinance, though unpopular, was a safeguard against "kafir farming." But it pointed out that rents charged to natives by owners had increased fifty or one hundred per cent.[50]

The practice of renting European land to natives, which is authorized by the ordinance, is also unsatisfactory to Europeans. In 1925, the Land Commission reported: "The evidence of the farmers in the country is almost unanimously in favour of the abolition of this form of private location, which is regarded as quite unnecessary in connection with the question of labor supply, and as tending to keep land out of the market, owing to the fact that syndicates and large private land owners are enabled to make a revenue by way of rents from Natives out of land which they are not developing, but which they are holding up with a view to

[46] Cf. Vol. I, pp. 76, 322 ff.
[47] *Report of the Chief Native Commissioner,* 1925, C.S.R. 7-1926, p. 1.
[48] *Statute Law of Southern Rhodesia,* 1910, p. 1013.
[49] A penalty of five pounds is imposed for each male native in excess of this number. Nevertheless, a land owner may, with the consent of the administration, permit natives to reside on his land, provided no burden is imposed on them either by way of rent or labor below the ordinary rate of wage or otherwise.
[50] *Report of the Native Affairs Committee of Inquiry,* 1911, p. 10.

ultimate sale to settlers at an enhanced price. In some instances as much as three pounds per annum is charged as rent to each adult Native. . . ." [51] The commission nevertheless believed that to prevent the existing loss of labor to Europeans, squatter agreements should exact from the squatter a certain period of labor in return for the use of land.

Until recently, natives living on Crown land have been apparently subject to none of the restrictions applied to natives on European farms. They have merely been obliged to pay an annual quit-rent of a pound to the government. They have, moreover, had no security of tenure outside of the reserves. As a result of the Order in Council of 1920, setting aside definite native reserves, natives are being obliged to move off unalienated Crown land into these reserves, the population of which has consequently been increasing.

8. *Pass Law*

The movement of Rhodesia natives is controlled by restrictions similar to those which exist in other inter-racial communities. The pass law requires that every native foreigner entering the territory must obtain from a Pass Office either a visiting pass or a pass to seek work, the validity of the latter being limited to thirty days. Every male native within the territory over fourteen days must register himself at the Pass Office of the district where he resides. Any native desiring to leave his district in search of work may obtain free of charge from the Pass Office a "pass to seek work" which is good for thirty days. Every employer must ask a new employee for his certificate upon which he indorses the date and terms of employment.

No railway ticket may be issued to a native without this certificate. Nine classes of natives are exempt from the obligation to have a pass.[52]

9. *Native Administration*

Native administration under responsible government in Southern Rhodesia is conducted on the same lines as it was by the South Africa Company—a tribute to the policies which the native affairs officials of the Company had worked out. The Prime Minister of the colony is, as

[51] *Report, cited,* p. 33.

[52] Natives' Passes Law, 1914, *Statute Law of Southern Rhodesia,* 1911-1921, p. 269.

In Rhodesia, a curious system called the "Box System" has arisen under which traders keep boxes in which natives may deposit their goods for safe-keeping or as security for payment of amounts due. In 1912, an ordinance was passed requiring the registration of box-keepers. Both the register and the boxes shall be open for inspection. No box or its contents should be sold by the box-keeper except with the consent of the native concerned and that of the Magistrate.

Credit to Natives—Box System Ordinance. *Ibid.,* 1911-1922, p. 221.

in the Union, also Secretary of Native Affairs. Native administration is directly supervised by a Chief Native Commissioner, under whom are three Superintendents of Natives, who in turn supervise thirty-two native districts, each in charge of a Native Commissioner. More than three hundred chiefs are paid a stipend by the government.[53] They do not apparently exercise any judicial power.

The government has created a native trust fund,[54] the revenues of which come from rents of trading sites in the reserves [55] and other sources, and which are used for the development of the reserves such as the planting of trees and the purchase of grade bulls. So far, the natives have no control over this fund. Native taxes—amounting to a pound a year [56]—provide a revenue to the government of 328,370 pounds. In return, the government expends 137,218 pounds on the Department of Native Affairs and thirty-two thousand pounds in grants to native education. Certain expenditures, difficult to calculate, are made for the promotion of native health and agriculture. It is probable that more than half of the direct taxes of the natives are directly returned to them—a proportion which appears to be as high as in Kenya or South Africa.[57] Southern Rhodesia could study with profit the new Taxation and Development Act of South Africa which, as we have seen, definitely earmarks a portion of native taxation for native purposes.

The Rhodesian Constitution (Article 47) authorizes the government, with the approval of the High Commissioner, to establish in any native reserve native councils of the chiefs and other natives, for the discussion of matters of direct interest to the native population. The Governor is empowered to confer on these councils "such powers of management over local matters as he may think desirable."

Although some natives have requested that these councils should be established, the government so far has taken no action in this respect. According to the Commission of Native Education, the natives are not yet fitted to carry out the duties of such councils.[58]

But if the natives of Kenya and of South Africa are "fitted" to perform

[53] Cf. the Native Regulations issued by the company in 1898, C. 9138 (1898). p. 17. These Regulations were amended in 1910 (*ibid.*, p. 115), and in 1924, (*Statute Law of Southern Rhodesia,* 1924, p. 34.)

[54] Regulations for Establishment and Administration of the Fund. *Statute Law of Southern Rhodesia,* 1924, p. 357.

[55] Cf. Native Reserve Regulations. *Ibid.,* 1923, p. 131.

[56] And ten shillings for each additional wife. Native Tax Amendment Ordinance, *ibid.,* 1911-1912, p. 515.

[57] Cf. Vol. I, pp. 382 ff. But cf. also Vol. I, p, 653, in general to Nigeria where 335,000 pounds more than the entire sum of direct taxation is returned directly to the natives.

[58] *Report of the Commission on Native Education,* C.S.R. 20-1925, p. 115.

these duties, one should suppose that the natives of Rhodesia would be equally able to talk about matters affecting themselves. Similar experiments elsewhere in Africa show that the ability necessary to perform these duties can be acquired only by experience. It is difficult to see what dangers the establishment of such councils would create, especially when they are kept under close administrative control.[59]

10. *European Defense*

Southern Rhodesia, following the example of South Africa, has adopted the system of compulsory military service for Europeans. The Southern Rhodesia Defense Act of 1926 lays down the principle that every citizen is liable to assist in the defense of his country, but because primarily of the financial burden, every citizen is not actually obliged to fulfil this obligation. Under the new act, the government may from time to time fix the number of citizens who may be obliged to undergo this training. The organization of military forces of Rhodesia consists of a Permanent Force, a Territorial Force, and certain reserves. The Permanent Force consists of the permanent South Africa police. The Territorial Force is recruited partly from volunteers and partly from conscripts, but compulsion is to be employed only when sufficient volunteers do not present themselves. In 1925, there were eight military districts in Rhodesia maintaining rifle companies having an enrollment of 2,456.[60] Under such a system, native revolts may be quickly quelled.

[59] Southern Rhodesia has also taken commendable steps in developing native education. In 1920, it established two schools for the promotion of native agriculture and industry, due to the initiative of Mr. H. S. Keigwin, a native commissioner. But it appears that the original idea has since been departed from in that home industries have not been developed as was originally intended. The bulk of the educational work among natives is carried on by different missionary societies. The American Methodist Mission at Umtali is doing effective work in teaching agriculture.

[60] *Report of Defense,* 1925, C.S.R. 6-1926, p. 4.

CHAPTER 14

THE LABOR SITUATION

As we have seen, the European farmers and mine operators of Southern Rhodesia—numbering about thirty-four thousand—depend for their existence upon native labor.[1] The farmers are organized into a Rhodesian Agricultural Union while thirty-seven mining groups are associated in the Rhodesia Chamber of Mines.

The labor situation may be seen from the following table:

Natives in Industrial Employment in 1925

	Work other than mining	Mining	Totals
Indigenous	44,561	10,572	55,133
Alien	63,000	29,072	92,072
Total	107,561	39,644	147,205

The supply of local labor has increased from 28,701 in 1910 to 55,133 in 1925. One-fifth of the native population—representing the males available for work—is about 167,000. Thus a third of the potential workers is in European employment—a percentage somewhat less than that of the Transkei, Basutoland, and Kenya.

As the above table illustrates, European enterprises rely more upon alien than upon local labor. Of the 43,000 alien natives entering the Colony in search of work in 1925, nearly twenty thousand came from Northern Rhodesia, seventeen thousand from Nyasaland, and six thousand from Portuguese East Africa. In order to obtain this labor, Rhodesian employers made use of a recruiting organization in some ways similar to the organization in South Africa called the Rhodesian Native Labor Bureau.

1. *The Native Labor Bureau*

Following various abortive efforts at organization beginning in 1895,[3] the first Rhodesian Native Labor Bureau was established in 1903, with

[1] The total value of Rhodesia mineral production in 1923 amounted to about 4,300,000 pounds. In 1925 the gold production was 582,000 gold ounces in comparison with 9,600,000 ounces in the Transvaal (and 19,062,000 ounces for the world). *Rhodesia Chamber of Mines Report,* 1925, p. 64. In 1925, about 760,000 tons of coal were also produced.

[2] *Report of the Chief Native Commissioner,* 1925, p. 4.

[3] At this period, the Chamber of Mines considered schemes to import labor from Algeria, the Transkei, Abyssinia, the West Indies, and Gazaland. *Report,* 1900, p. 31.

a manager appointed by the government. In order to provide this Bureau with revenue, the government enacted in 1906 the Labor Fees Ordinance, which required every mine operator employing twenty-five laborers to pay a tax of one shilling per month per native employed, which the government would turn back to the Bureau.[4]

In 1911, the Bureau was incorporated upon its present basis. All employers, whether of mining or agricultural labor, may become members upon the payment of subscriptions, the rate of which varies in accordance with their labor demands. Members promise not to obtain labor outside of Southern Rhodesia except through the Bureau. Each member is entitled to receive from the Bureau the proportion of the total labor recruited by it which the labor under his employ—called a complement—bears to the total demand. In addition to paying the original stock subscription, all members of the Bureau must also pay capitation fees on the labor supplied, originally fixed for the mine owners at five pounds a man and for the farmer at two pounds. Moreover, the farmer must pay the labor tax.

The Bureau maintains a system of agents and runners, some of whom are on salary and some on commission. The boys, having signed a contract, walk in some cases five or six hundred miles, which takes a month, to get to a station on the railway. Despite the fact that the agents supply boys with food, many of them arrive at these stations in an under-nourished condition. Frequently boys of the age of ten or twelve, or even younger, are recruited. Unlike the two recruiting organizations in South Africa, the Rhodesian Bureau itself bears the expense of the fees which are paid to the Northern Rhodesia Government, and of the railway fares to Bulawayo. The bureau advances to each boy two blankets and a jersey, the cost of which is deducted from his pay.

Despite the payments which it receives, the Bureau has had its financial difficulties from the beginning. In order to increase the security necessary for a Bureau loan, the government enacted a new Labor Tax Ordinance in 1911 which levied a labor tax not only on the mine employers but also on the farmers who had previously been exempt. The Secretary of State for the Colonies, however, disallowed the ordinance on the ground that it obliged farmers to contribute to an organization which many of them did not use. As a result, the 1906 Labor Fees Ordinance continued in effect until after the World War. But in order to keep the Bureau above water, the government granted it an annual subsidy of twelve thousand pounds—an amount which was reduced in 1926 to ten thousand pounds. Thus the mines have been obliged to pay higher capitation fees than the

[4] *Laws of Southern Rhodesia*, 1914, p. 855.

farmers and they alone have been subject to the labor tax. Despite their privileged position, farmers represented in the Legislative Council have complained vigorously against granting a government subsidy to an organization which the more popular employers do not need to use.[5]

In 1924, the expenses of the Bureau came to more than 37,657 pounds,[6] which amounted to about seven pounds per man recruited. These expenses were covered by 11,600 pounds in capitation fees; 20,865 pounds in labor tax fees collected by the government, and twelve thousand pounds in a government subsidy.[7] Thus nearly thirty-three thousand pounds out of the total revenue of 47,037 pounds was due to government aid. From the financial standpoint, the Bureau is therefore semi-governmental in character, and the taxpayers of Rhodesia are obliged to contribute to the support of what some of them do not regard as a public enterprise. Only 10.54 per cent of the labor in 1924 employed on the mines was supplied by the Bureau. Out of a total of 43,205 alien natives who entered Rhodesia for employment in 1924 only 4589 were supplied by the Bureau. The majority of the natives prefer to come to the mines independently of the Bureau, in order to escape the system of compulsory deferred pay which applies to Northern Rhodesia and Portuguese boys. Moreover, the Government of Nyasaland does not permit recruiting.[8] The Bureau performed, however, a great service to European interests by starting the boys coming to the mines. The Rhodesian Agricultural Union Congress, 1925, passed a motion stating that it should be maintained as a kind of insurance against labor shortages in the future.[9]

Considerable ill-feeling has existed over the fact that the mine owners have been taxed more heavily for the support of this Bureau than the farmers, who in 1925 took 65 per cent of all the Bureau recruits.[10]

Steps to remove the discrimination between the mine owners and the farmers were taken in 1913 when, as a result of protests from the mines, the capitation fees paid by mines were reduced from five pounds to 3.10.5, pounds, while the farmers' capitation fees were increased to that figure. But despite this change, the mines still bore the burden of the labor tax of one shilling per man per month, collected on all labor, regardless of whether or not it had been recruited by the Bureau.

[5] *Legislative Council Debates,* 1922-1923, Vol. 3, pp. 954 ff.

[6] This includes 4,530 pounds in interest payments and redemption of debentures.

[7] In addition, there were revenue from interest, and sundry sources. *Report, Rhodesian Native Labor Bureau,* 1925, p. 9.

[8] In order to protect the local labor supply, and to guard natives against succumbing to hunger on journeys to work, cf. *Rhodesia Chamber of Mines,* 1911, p. 61. Nevertheless, because of the comparative over-crowding of Nyasaland, the Nyasaland boys voluntarily seek work in large numbers in Rhodesia.

[9] *Rhodesia Herald,* October 2, 1925.

[10] *Report, Rhodesian Native Labor Bureau,* 1925, p. 19.

In 1921, a Native Labor Committee on Inquiry [11] reported that the "present system of recruitment is not entirely popular with the native laborer." It appears that one reason for this unpopularity is that Bureau boys receive wages lower than those paid before the War, in contrast to wages paid to "voluntary" labor which have risen.[12]

As a result of the recommendation of this committee, the farmer members of the Bureau agreed in February, 1922, to accept an additional fifteen-shilling fee, to enable the Bureau to refund to the mines a proportion of the labor tax which they paid under the Labor Fees Ordinance.[13] Later on, the government relieved all mines employing less than two hundred laborers from the labor tax.[14] Formerly all employers of more than twenty-five men had been liable to the tax. This action diminishing the revenue of the Bureau was followed by the reduction of the government subsidy in 1926-1927 by two thousand pounds. At the same time the government served warning [15] that it could not promise to continue the subsidy for more than one year. In explaining this position, the Prime Minister said, "We do not wish this Government to be turned into a recruiting agency at all, and if the interested parties cannot amongst themselves finance the Bureau, it will simply mean that the Bureau will have to terminate, and those who want labour will have to find it where they can." [16]

Thus the Bureau is faced with a prospect of greatly reduced revenues on the one hand, and with the fact that the employers of Rhodesia use its services only to a limited and diminishing extent on the other.

2. *The Mozambique Convention*

In 1914, the Rhodesian Government made a labor convention with the Government of Portugal, providing for the recruiting of Portuguese natives, similar in terms to the Mozambique Convention to which South Africa is a party. A new agreement was signed in 1925 between the governor of Southern Rhodesia, a representative of the High Commissioner of the Portuguese Republic, and the chairman of the Rhodesian Native Labor Bureau, under which the Portuguese agreed to allow the Bureau to recruit a monthly average of fifteen thousand natives from the district

[11] Southern Rhodesia, A. 16, 1921.
[12] Cf. the *Cost of Living Committee,* A.-2, 1921, S.R. p. 11, which says that the Labor Bureau reduced minimum wages in May 1914 by two shillings a month for farm labor and by 2s 6d for mine labor—figures which remained in force in 1921.
[13] *Report, Rhodesian Native Labor Bureau,* 1922, p. 4.
[14] Labor Fees Ordinance Amendment Act 1925, *Statutes of Southern Rhodesia.*
[15] *Rhodesia Herald,* October 2, 1925.
[16] *Legislative Council Debate, cited,* col. 602.

of Tete, subject to obligations similar to those in the convention with South Africa, elsewhere discussed.[17]

Although 3,718 Portuguese natives were employed altogether on the mines, only 178 Portuguese natives were recruited by the Bureau in 1925.[18] This is presumably because the convention was put into effect only in the middle of the year. But because of the system of passport fees, taxes, and compulsory deferred pay, Portuguese natives will probably not find the Bureau's offerings particularly attractive.

Thus two-thirds of Rhodesia's labor supply comes from without the colony. These figures themselves demonstrate that Rhodesia industry suffers from a labor shortage, which will probably increase in the future. The development of communications and of native agriculture will provide employment at home for more and more natives in Nyasaland. The same factor is beginning to operate to cut down the number of laborers in Northern Rhodesia who seek outside work. The competition of the Broken Hill, Bwana M'kuba and Congo mines is already taking labor which otherwise might go to Southern Rhodesia. The Tete district of Portuguese Mozambique remains as the most hopeful outside source. In view of the extensive reserves set aside for Rhodesian natives, it is doubtful whether a larger percentage of them will voluntarily seek work in the future than do at the present time.

3. *Demand for Government Aid*

Thus the same set of circumstances as found in South Africa and in Kenya has led to a local labor shortage, which in turn has led not only to the importation of labor, but to the demand for government aid which in the early days appears to have been given.

In 1897, a Commissioner, Sir R. Martin, reported to the Imperial Government that forced labor had undoubtedly existed in Matabeleland if not in Mashonaland. Administrative officials had furnished labor not only for the government but also for mining companies and for individuals.

[17] Cf. Vol I, p. 29. For the text, cf. *Colony of Southern Rhodesia Government Gazette,* July 31, 1925, p. 379. The Portuguese Government maintains a curator at Salisbury. The Bureau agrees to pay the Portuguese Government a sum of one hundred pounds a year, and each recruiting agent must also pay a fee of ten pounds a year. The Bureau pays to the Portuguese curator a fee of one pound for each laborer as a passport fee every two years. The Bureau collects the Portuguese taxes due from Tete natives; and the Rhodesian Government guarantees that the curator shall receive annually four thousand five hundred pounds from these sources. One half of the wages earned by Tete laborers shall be paid upon their return home—the system of compulsory deferred pay.

Presumably the Bureau deducts from the wages of the Tete labor the passport fee and the tax which it turns over to the Portuguese Government.

[18] *Report, Chamber of Mines,* 1925, pp. 17-18.

They first attempted to obtain this labor through the chiefs, but if this procedure did not succeed, they employed force.[19]

In 1902, the Resident Commissioner, Sir Marshall Clarke, also reported to the Imperial Government that the natives "work in the mines either from direct pressure brought to bear on them by the Administration. a pressure only short of force, or the necessity of earning enough to pay their taxes" [20]—a charge which the mines "denied absolutely."

In 1901, the Secretary of State issued orders to officials in the Native Affairs Department that neither directly nor indirectly should they induce natives to seek work. But following the pressure of the mines, the administration revised these circulars in 1907 and requested native commissioners to point out to natives the state of the labor market. The circulars did not, however, authorize officials to induce natives to work. Two years later, the Chamber of Mines submitted a long memorial to the government, stressing the labor shortage and protesting against the labor policy of the government. It declared that "no beneficial results" are apparent from the 1907 circulars, since they "fail to embody any inducement or incentive to the native to work for his own benefit." It further stated that it was "the obvious duty of the State, through its recognized officials, ceaselessly to place before the native population the benefits to be derived from industry. . . ." It urged that early action should be taken to stimulate habits of industry among the natives "and thus save the country from any retrograde movement." [21]

In reply, the government stated that it was opposed to higher taxation or to compulsory labor. It would, however, advise natives to go out and work. Meanwhile, it appointed a committee to investigate native affairs. While this committee reported that there was a labor shortage in the country, it opposed the suggestion of a number of employers that recruiting should be carried out by government officials. The committee stated the argument against government recruiting as follows:

"Its advocates entirely repudiate the idea of compulsion, but on careful consideration it will be seen that to be effective the part to be taken by public officials must either involve a certain degree of pressure, which, in the native mind, would not be distinguishable from compulsion, or it would expose the prestige of the Government to risk of contempt, because the methods adopted would necessarily be such as to indicate that there was no intention to exercise undue influence. The plain truth of the matter is that, if Govern-

[19] The company denied that actual physical force had been used. *Report by Sir R. E. R. Martin, K.C.M.G., on the native administration of the British South Africa Company, together with a letter from the Company commenting upon that report,* July, 1897, C. 8547.

[20] *Report, Chamber of Mines,* 1903, p. 49.

[21] *Ibid.,* 1909, p. 48.

ment should find it necessary or expedient to take active steps through its officials in recruiting labor, it would have to carry out the work in a wholehearted manner. It could not afford to risk rebuffs in the shape of unsuccessful attempts, whether expressed in the form of wish or order, to induce compliance with its desires. Knowing this, officials would sooner or later be tempted to resort to measures which would bring the Administration into disrepute." [22]

In 1925, a similar statement was made by Sir John Chancellor, the Governor of Southern Rhodesia, in reply to certain resolutions of the Agricultural Union. He said:

"It has been claimed that the provision of an adequate supply of labor is a national question, and that it should therefore be undertaken by Government. That is a fallacious argument. That everyone should have clothes to wear and food to eat are also national questions, but they are questions for every individual to solve for himself. A fundamental principle of the British Empire is that everybody enjoys freedom under the British flag. Every subject of the King is free to enter into a contract or to abstain from entering into a contract for the disposal of his labour. Any measures taken by Government to apply compulsion to natives to secure an adequate supply of labour for private employers would be opposed to the traditional policy of His Majesty's Government, and would be altogether repugnant to the sentiment of the Imperial Parliament. Any agitation to secure the introduction of compulsory labour would react unfavourably upon the reputation of Rhodesia, which in regard to its native policy stands, and has always stood, very high."

This passage should be commended to the attention of the Governors of East Africa who have laid down a somewhat different policy.[23]

4. *Condition of Labor*

Labor on the Rhodesia Mines and elsewhere is subject to the protection of the Mines and Minerals Act and Native Labor Regulations, similar to those in force in South Africa.[24] These regulations provide for the control of recruiting and the attesting of contracts as in South Africa. Desertion is punishable by a fine not exceeding ten pounds, or in default of payment by imprisonment for a period not exceeding two years, or to such imprisonment without the option of a fine. The government may appoint labor inspectors.[25] The mortality rate on the Rhodesia Mines has declined from

[22] *Report of the Native Affairs Committee of Inquiry,* 1910-1911, A. 12-1911, p. 35.

[23] Cf. Vol. I, p. 509.

[24] *Statute Law of Southern Rhodesia,* 1911-1922, pp. 203-330.

[25] In 1924 there were no prosecutions under these regulations, while complaints of natives in regard to the non-payment of wages numbered eighteen in comparison with twenty-nine in 1923. *Report on Public Health,* C.S.R. 16-1925, p. 5.

49.27 per thousand in 1910 to 15.38 per thousand in 1925.[26] This rate is higher than on the mines of South Africa, but much lower than on the mines in the Belgian Congo.[27] It does not appear that there is any government supervision of labor conditions on the farms.

In 1922, the Southern Rhodesian Government enacted a Native Laborer Compensation Law providing for compensation on the following scale:

1. Permanent partial incapacitation.....from 1 to 10 pounds
2. Permanent total incapacitation.....from 10 to 25 pounds
3. Death .....10 pounds

These rates are proportionately about half those paid Europeans, taking into consideration the difference of wages.[28]

Although no legislative color bar exists on the Rhodesia mines,[29] the fifteen hundred Europeans employed as skilled laborers in these enterprises resent native competition as much as do the South African miners. Following the World War, the European unions brought about a strike partly to secure increased wages and partly to drive out non-union European laborers. While the mine operators settled the strike by inducing the Union to accept the principle of the open shop, in return they promised that the policy not to substitute colored for white labor would remain unaltered.

In an address at a labor conference, the Chairman of the mining representatives declared:

"We have no intention at the present time to employ either more or less natives than are at present employed. You know as well as I know, the conditions obtaining in this country. There are mines which would not exist if they were not wholly and solely worked by the native. . . . As regards the bigger mines, I speak with due authority when I say that it is our wish and our hope that we may continue working always with white men in so far as it is possible. . . . I am speaking with all seriousness on the question of the

[26] *Report, Chamber of Mines,* 1911, p. 112; *ibid.,* 1925, p. 50. In the latter year, 12.73 per cent was due to disease, while 2.65 per cent was due to accident.

Cf. *Report on Public Health,* 1924, p. 9. In commenting on the increase in mortality due to disease from 13.44 per thousand in 1923 to 16.11 in 1924, said: "The sickness and mortality rate amongst native mine laborers increased during the year, and it is interesting to note that the higher rate of sickness was ascribable to diseases which are associated with a short rainy season and a low rainfall," such as pneumonia, scurvy, and dysentery.

[27] Cf. Vol. I, p. 570.

[28] *Statute Law, cited,* 1911-1922, p. 608. In the same year the Rhodesia Government enacted a Compensation Law for Europeans which (art. 11) authorizes under certain circumstances the payment of seven hundred and fifty pounds or three years' wages for permanent or partial incapacitation, and of two years' wages in case of death.

[29] This is forbidden by the racial equality clause of the constitution, except with the consent of the High Commissioner.

colour bar. . . . We have a vast race in the natives, and there is nothing to prevent them increasing their knowledge and utility and becoming more and more a great factor in labour. . . . Just look at what is taking place at the present time at the Wankie Colliery; a handful of whites, plus the intelligent native, are turning out two-thirds of the output which was turned out before the strike. The majority of the mines in the asbestos industry are in the same position. . . . The native to-day reads our papers, he has his own little organizations—however faulty they may be—and you cannot expect the native to do otherwise than to say to himself: 'We have proved what we can do.' . . . Owing to these strikes they are given responsible positions which, to my mind, is aiding and abetting the greatest possible danger in this country, which is the possibility of the native superseding the white man in his work." [30]

From this address, it would appear that the color bar in Rhodesian industry rests upon a shaky basis.

In a number of respects, the native of Southern Rhodesia is subject to fewer restrictions and enjoys more "privileges" than does the native in South Africa. He has more land than the native of South Africa. The squatter legislation is less restrictive, and for the moment a native may purchase land where he likes. A smaller percentage of men are away from the reserves. The Rhodesian pass system is less exacting than that in South Africa.

On the other hand, European enterprise relies for two-thirds of its labor upon outside sources—an unhealthy system from the standpoint of the imported native and of industry. Moreover, these outside sources will almost certainly in the future dry up. Despite the adoption of labor saving machinery and labor saving crops, it is doubtful whether rapid economic development in Rhodesia will take place as long as the native population remains at its present figure.

Moreover, the burden of responsible government falls so heavy upon the population of thirty-four thousand whites, among whom few men of sufficient leisure to enter politics can be found, that it is not improbable that, despite its past attitude, Rhodesia will eventually become a fifth province in the Union of South Africa.[31] Whatever benefit the European community would derive from such a step, the Rhodesia native

[30] *Report, Chamber of Mines,* 1920, p. 44.

[31] Rhodesia is now called a colony. It has a governor appointed by the Crown; but a prime minister and cabinet of six ministers responsible to a parliament which for the present contains only one chamber, of thirty members. Women may vote. There is only one political party—the People's party—which came into existence on the issue of responsible government instead of union with South Africa. The government imposes an income tax, but as yet there is no taxation imposed upon unoccupied land—a tax the adoption of which is being considered. Cf. *Legislative Council Debates,* 1925, col. 374.

would be obliged to cast in his fate with the South African native, thus losing many of the privileges which he now enjoys. Such a step would probably mean, as it did in the case of the Free State and the Transvaal, that the Imperial Government would abolish the control which it now exercises over Rhodesian native policy. In such a case, the Union of South Africa might attempt to use the relatively large native reserves in Rhodesia for the overflow of native population from the Union. Natives would presumably lose the right of purchase in Rhodesia just as Union natives virtually lost it in the Union through the Land Act of 1913. Any such measures would injure the Rhodesian population without doing the Union natives any permanent good; in fact, such a measure might delay agrarian reform in South Africa.

CHAPTER 15

NORTHERN RHODESIA

NORTHERN Rhodesia is a territory which covers an area larger than England, and is inhabited by about 1,100,000 blacks and forty-two hundred whites. The country is traversed north and south by the Rhodesia and Mashonaland Railway over which much of the copper of the Congo passes on the way from the Katanga to the Portuguese port of Beira. East and west the territory has no railway connections and it now takes three or four weeks to travel from Fort Jameson to Livingstone, the capital. The settler population is concentrated within the railway strip except for about two hundred and fifty settlers in the Fort Jameson area. Inasmuch as perhaps two-thirds of the area is a plateau having an elevation of between four thousand and five thousand feet, a large part of the country is climatically suitable for white settlement.

On the other hand, the native population is more sparse than in most of the other territories in Africa, averaging 3.5 per square mile. This sparsity is partly due to the ravages of sleeping sickness which the government is now starting to combat, and to the drains upon the native population which the labor centers of Rhodesia and the Congo—not to mention the centers along the railway line—have imposed.

1. *Company Administration*

Livingstone was the first European to visit Northern Rhodesia and Barotseland. He was followed by other Europeans, entering Central Africa from the East Coast, who engaged in a series of encounters with Arab slave raiders. Urged on by the efforts of Cecil Rhodes, the British Government in 1891 extended the sphere of action of the British South Africa Company to include the territory north of the Zambesi as far as the Congo Free State, but excluding Nyasaland. The Company appointed Mr. H. H. Johnston as Administrator who was then also British commissioner for Nyasaland, and it paid him the sum of ten thousand pounds annually which he could use at his discretion in the administration of the two territories.[1] A few years later the Company divided up the territory into Northwestern and Northeastern Rhodesia, each under a Company ad-

[1] *Memorandum of agreement,* C. 7637 (1895).

ministrator. For a time the administration enacted legislation for Northeastern Rhodesia subject to the approval of the Governor of Nyasaland. In 1911, these areas were combined into the Protectorate of Northern Rhodesia.[2] Throughout its history, Northern Rhodesia has not been self-supporting.[3]

The total deficit under the South Africa Company rule (until 1919) amounted to a million and a quarter pounds. Except for an Advisory Council established in 1917, containing five elected members, the white population had no control over the administration. When the Company attempted to impose an income tax to relieve the deficit in 1920, the Council asked that the measure be deferred until a Legislative Council with control over revenue had been established—a body which was recognized in the new Constitution of 1922.[4]

2. *The Land Settlement*

The judgment of the Privy Council in regard to the land of Southern Rhodesia did not apply to the territory in the north. Consequently, the Buxton Commission appointed to study terms of settlement recommended that this question as well as that of the administrative deficit of Northern Rhodesia be referred to the Judicial Committee.[5] But instead of referring the land and finance question to adjudication, the Company and the Crown decided to come directly to an agreement, in which the Company

[2] Because of the desire for white settlement, the proposal has been made that Northeastern Rhodesia be united with Nyasaland; that the railway strip be made a separate colony or joined with Southern Rhodesia; and that Barotseland be made a separate native state similar to Basutoland. The East Africa Commission, however, reported that as far as the union of Northeastern Rhodesia with Nyasaland was concerned, no local opinion favored such a division. *Report of the East Africa Commission,* Cmd. 2387 (1925), p. 101.

This commission which visited East Africa in 1924 was composed of a representative of each of the three parties of parliament. It was instructed to report on the measures to be taken to accelerate the general economic development of British East Africa and the means of securing closer coordination of policy on such matters as transportation, cotton-growing, and disease; on the steps necessary to ameliorate the social condition of the natives of East Africa; on the economic relation between natives and non-natives; and on the taxation of natives and the provision for services directed to their moral and material improvement.

[3] In 1913, revenue was 126,640 pounds and expenditure 204,984 pounds. *Administrative Revenue and Expenditure in Southern and Northern Rhodesia, 1913.* Cd. 7352 (1914).

[4] An income tax has also since been imposed, but only one per cent of the settlers are said to pay the tax because it applies only to incomes of more than one thousand pounds.

[5] The Commission declared that "a claim might be put forward that the unalienated lands, which in the case of Southern Rhodesia, the Judicial Committee declared to belong not to the Company, but to the Crown, and on the proceeds of the sale of which the Company's reimbursement depends, belong in Northern Rhodesia to neither of them, but to the natives." Its Report is printed in Cmd. 1471 (1921).

agreed to abandon its claim to reimbursement of any part of its deficit in Northern Rhodesia.[6] Moreover, "full and entire control of the lands" would be taken over by the Crown. But the Company would retain three freehold areas which it held under certificates of claim issued by Sir H. R. Johnston to the North Charterland Exploration Company, a subsidiary of the South Africa Company. As many natives inhabit part of this land which is in the most densely populated area of the country, the Crown reserved the right to set apart such native reserves in the area as it might deem proper.

In return for abandoning its claims for reimbursement of the deficit the Company receives one-half of the proceeds derived by the Crown from the sale or lease of lands in Northwestern Rhodesia, for a period of forty years. The agreement appears, therefore, to contemplate a policy of white settlement.[7]

So far the North Charterland Exploration Company holds an immense concession, subject to the assignment of native reserves, of 6,400,000 acres, while the British South Africa Company itself holds three freehold areas amounting to 2,758,400 acres; and the government has alienated about three million acres more, making a total of 19,000 square miles, out of a total area in the Protectorate of 291,000 square miles.[8]

Apparently the Northern Rhodesia Government supports the ideas of native reserves,[9] not only because it wishes to alienate land to settlers but because it wishes to bring the native population, now so thinly scattered throughout the country, more closely together for administrative convenience.[10]

Recently a Native Reserves Commission has been studying this question of reserves in the East Luwanga district. The Missionary representatives do not believe, however, that further land alienations should take place. At the Northern Rhodesian Missionary Conference held in 1924, a resolution was passed, which said, "Since large portions of the country have already been alienated and ceded to European owners it is of opinion that almost all the balance will be needed to meet the require-

[6] Except for half the deficit for 1923-1924 which the Crown agreed to assume, or fifty thousand pounds, whichever might be less.

[7] For the text of the Agreement of September 29, 1923 see Cmd. 1894 (1924); a summary is printed in Cmd. 1914.

[8] *Annual Report, Northern Rhodesia,* 1924-25, p. 10.

[9] It cannot, however, alienate from the Barotse people territory reserved under agreements between Lewanika and the South Africa Company of October 17, 1900, and August 11, 1909. Cf. Article 41, Northern Rhodesia Order in Council, 1924. These agreements have not been published, and the South Africa Company declined to furnish them to the writer.

[10] The policy of moving native villages for administrative purposes has elsewhere been condemned. Cf. Vol. II, p. 491.

ments of the native population. It should be remembered that much of the unalienated land is unsuitable for cultivation, other areas are in the tsetse fly belt, and, judging from the history of similar peoples the population is likely to double itself in the next twenty-five or thirty years. In view of this the Conference is strongly of opinion that no more land should be alienated without the express sanction of the Governor until a Reserves Commission has reported and the needs of the Native Peoples are fully met. . . .

"The Conference suggests that all unalienated lands be regarded as held in trust for the native peoples and pleads that part of the proceeds of any land sales be definitely apportioned for land improvements in the native areas.[11]

It will be difficult for the administration of Northern Rhodesia to give sufficient attention to these considerations not only because of the importunate demands of Europeans but also because of the pressure from the South Africa Company which receives one-half of the proceeds from all land sales.

Following an agreement with the Company in regard to the deficit, a constitution for Northern Rhodesia was issued in 1924 creating, in addition to a Governor and Executive Council, a Legislative Council having an official majority, but with five unofficial members who now are elected by the European population. The Northern Rhodesia Order in Council contains guarantees against discriminatory legislation such as are found in the Southern Rhodesia Constitution. Natives may acquire land upon the same basis as non-natives, and no natives shall be removed from any kraal except by order of the Governor.[12] Inasmuch as Northern Rhodesia is not self-governing, as is Southern Rhodesia, the constitution contains no clause reserving rights to the High Commissioner over native affairs.

3. *Native Policy—the Barotse Kingdom*

For administrative purposes the government has divided the country into nine districts, each in charge of a magistrate, which in turn are divided into thirty-four sub-districts each in charge of a native commissioner. Each sub-district contains about 250 villages and a population of 10,000 people. Headmen and chiefs receive insignificant subsidies ranging from ten shillings to ten pounds a year. The courts of chiefs settle disputes, sub-

[11] *Proceedings of the General Missionary Conference of Northern Rhodesia,* Lovedale, 1924, p. 24.

[12] Northern Rhodesia Order in Council, 1924, *Statutory Rules and Orders,* 1924, p. 395; Legislative Order in Council, *ibid.*

ject to an appeal to the commissioner. But a native may go directly to the commissioner with a dispute except in Barotseland where native courts have exclusive jurisdiction.[13]

Among the most important tribes of Northern Rhodesia are the Awemba people, inhabiting the plateau of Northeastern Rhodesia, and the Barotse nation, living on the Zambesi river.[14]

The Barotse people, who number several hundred thousand, are governed by a Paramount Chief who in the eyes of his subjects can do no wrong. Chief Lewanika, who ruled the tribe at the coming of the Europeans, was, together with Chief Khama of Bechuanaland and Lobengula of Matabeleland, one of the outstanding figures of African history. Under the influence of Chief Khama, Lewanika enacted a régime of prohibition throughout his kingdom. While he never embraced Christianity he was for many years under the influence of François Coillard, the great French Protestant Missionary. Following his consent to the treaty of protection in 1890, the King turned against Coillard who had advised the establishment of the Protectorate. Later, however, this ill-feeling disappeared.[15]

In 1891 the British and Portuguese governments made a treaty fixing on the Zambesi river as the boundary line between Portuguese and British Africa, up to the point where it reached the territory of the Barotse kingdom, which should remain in the British sphere. A disagreement soon arose as to the extent of this kingdom. Portugual lay claim to territory which Lewanika asserted fell within his kingdom. At the instance of the South Africa Company, the British and Portuguese governments agreed to submit the Barotse boundary to the arbitration of the King of Italy in 1903.[16] While the award increased part of Lewanika's territory, it did not grant him jurisdiction over tribes, such as the Balovale, which had merely paid tribute to him.[17] The actions of the Paramount Chief of Barotseland are subject to the control of a national assembly called the Kotla. This assembly meets daily. The Chief as a rule attends the session for a few minutes to show his people that he is well. But the Kotla enacts no important business until after the Chief withdraws. The

[13] The best study of administration in both Northern and Southern Rhodesia is H. Rolin, *Les Lois et l'Administration de la Rhodesie,* Brussels, 1913.

[14] Cf. C. Gouldsbury and H. Sheane, *The Great Plateau of Northern Rhodesia,* London, 1911, chs. II-VIII. Also E. W. and Dale Smith, *The Ila Speaking Peoples of Northern Rhodesia,* 2 vols., London, 1920.

[15] C. W. Mackintosh, *Coillard of the Zambesi,* London, 1907, Ch. XXI.

[16] *Declaration of August 12, 1903,* Cd. 3731 (1907).

[17] *Award respecting the Western Boundary of the Barotse Kingdom.* Cd. 2584 (1905). The Wangoni people are divided between Northern Rhodesia, Nyasaland, and Tanganyika.

Kotla tries important cases and makes native laws.[18] In theory the judgment of the Kotla is final, but in practice an aggrieved native may take his dispute to the European Commissioner. Very few appeals are thus made out of fear apparently of the Chief. The European Government appears to exercise very little control over the Barotse tribunals. The land occupied by the Barotse nation constitutes a reserve from which European farmers and miners are excluded. Traders may enter if they first provide themselves with a government license.

In 1890 and 1898 the British South Africa Company made two treaties with Chief Lewanika through which it gained control of Barotseland.[19] In return for certain concessions the British South Africa Company agreed to set aside 10 per cent of the native tax of Northwestern Rhodesia for the Barotse nation. Part of this tax would go to Chief Lewanika personally and the remainder to the tribe as a whole. In 1925 the British Government made a new agreement with his successor, Yeta III, which replaced the 10 per cent collected from the whole of former Northwestern (Barotseland) Rhodesia with 30 per cent of the tax collected from natives of the Barotse district. The amount paid into this fund was sixty-three hundred pounds in 1926-27.

Out of this fund the British Government annually paid Chief Lewanika twelve hundred pounds—a sum now increased in the case of Yeta III to seventeen hundred pounds.[20] The balance goes into the Barotse Trust Fund, established in 1905. This Fund is controlled by a Board of Management composed of five officials and two missionaries—there are no native members. The Paramount Chief is, however, invited to depute a member of the Kotla to attend the meetings, but he may not vote.[21] This money is used primarily to support a Barotse national school at Mongu having three European teachers, twenty native instructors and 782 native pupils. This school has an industrial and agricultural section. While the Barotse people no doubt receive great benefit from this school, it would seem that the Trust Fund is based on the wrong principle

[18] D. W. Stirke, *Barotseland, Eight Years among the Barotse,* London, 1922, Ch. III. F. Coillard, *Le Haut Zambèze,* Pau, 1898, pp. 197 ff.

[19] It appears that while Lewanika favored these treaties in order to strengthen his power, his chiefs opposed them. Cf. C. W. Mackintosh, *Coillard of the Zambesi,* pp. 382 ff.

[20] In an agreement of 1924, the government undertook to make an annual payment of five hundred pounds to the Paramount Chief, and two thousand pounds for division among his "Indunas," in return for the abolition of the twelve days of unpaid labor formerly exacted by the more important chiefs. The government also agreed to pay to the Paramount Chief three hundred and fifty pounds a year in lieu of his half shares in fees paid for game licenses, and five hundred pounds a year for the surrender of his rights to "ground" tusks outside the Barotse district. Colonial Reports, No. 1292, *Northern Rhodesia,* 1924-25, p. 15.

[21] Barotse Fund Ordinance, *Ordinances of Northern Rhodesia,* 1925, p. 73.

because it is administered entirely by Europeans. It would appear desirable to convert it into a Native Treasury such as is found in many other British territories in Africa, for the administration of which the Paramount Chief and the Kotla should be responsible.

4. *Native Taxes*

European settlers in Northern Rhodesia have found a ready market for their cattle and dairy products in the Katanga—the mining center of the Congo. About 1200 head of cattle are sent every month from Northwestern Rhodesia to the Congo. But the absence of railways and feeder roads in other parts of Rhodesia makes it impossible for the natives to produce crops for export. They are, nevertheless, subject to a poll tax of ten shillings a year in Northwestern Rhodesia and 7s 6d in Northeastern Rhodesia. Inasmuch as they are unable to sell products of their toil, most of them must, in order to pay this tax, seek work from European employers. Wages on the farms are four pence a day (six pence on the mines), a figure which appears lower than in any other British territory in Africa and which makes it more difficult than ever to earn tax money. Driven by this pressure about ten thousand boys go annually, through the good offices of the Robert Williams Company, to the Katanga mines; nearly twenty thousand Northern Rhodesian boys find work in Southern Rhodesia; some go as far as the plantations of Tanganyika. Still others go to the mines at Broken Hill and Bwana M'kuba which, although they are within Northern Rhodesia, are still many days away from the homes of natives living in the northeast territory. At least thirty thousand natives out of an adult male population of about two hundred thousand thus are away from their homes. While this is only a little over a seventh of this population, the effect upon native life in Northern Rhodesia is much greater than in South Africa. In the latter country a native wishing to work has merely to climb aboard a railway train; but in Northern Rhodesia a native must in some cases walk three or four weeks. While the Rhodesian Labor Bureau and Robert Williams Company furnish him with facilities such as food and blankets for travelling, in many cases natives have succumbed to disease and to exposure and hunger. Moreover, natives inhabiting the sleeping sickness areas of Northern Rhodesia which cover about thirty per cent of the country cannot go out to work, which means that the thirty thousand men who seek such employment must come from seventy per cent of the country.

Compared with the tax of one pound imposed upon natives in Southern Rhodesia and of thirty shillings in the Union of South Africa, the tax of ten shillings in Northern Rhodesia may appear light. But because of

these difficulties in earning money, the Rhodesian missionary conference believed [22] that the "tax is excessive and unjust." In a resolution it went on to say, "Very large numbers of Natives are forced to leave their homes and walk hundreds of miles to Southern Rhodesia or the Belgian Congo in order to earn their tax money on the mines or elsewhere. This great annual exodus of tax-paying males strikes at the whole fabric of tribal life and leaves the villages almost denuded of the adult males indispensable to the food producing and other labors of the Native Community. Land cannot be adequately cultivated, and any schemes for development of industries, or the improvement of agricultural methods are rendered impossible. Moreover, the men remain for increasingly long periods away from their homes with results detrimental to the physical and moral welfare of the women and children left behind—in fact of the whole community—and to all educational and evangelistic effort. . . ." [23] The East Africa Commission also remarked that the natives in some districts had considerable difficulty in earning enough money to pay their taxes.

While Rhodesian Administration is giving this matter sympathetic attention, stern necessity compels it to utilize every source of revenue [24] because there is an annual deficit in the colony which is met by an Imperial grant-in-aid usually amounting to about 140,000 pounds. The obligations upon the administration are great, especially in regard to combating sleeping sickness.

5. *Native Welfare*

Under the Chartered Company, it appears that while the natives were well administered both in Southern and in Northern Rhodesia, very little was done in a positive way to improve native life. But the British Administration is now attempting, despite the restrictions imposed upon it by the Lords of the Treasury on account of its deficit, to map out a program of grants-in-aid to mission schools.[25]

An agricultural and veterinary department is attempting to eliminate

[22] *Proceedings, cited,* 1924, p. 16.

[23] "We venture earnestly to press for a general reduction of taxation or at least for a reduction in the more outlying parts of the Territory. . . . We also strongly urge that as a matter of justice and with a view to the uplift of the people and the prevention of discontent a fair proportion of the proceeds of Native taxation, direct and indirect, should be devoted to the immediate benefit of the Native population, as for instance by providing improved education, medicines, and aid in agricultural development." (*Ibid.,* 1924, p. 17).

[24] In 1925 it enacted a Native Tax (Amendment) Ordinance which provided that if any native failed to pay the tax when due, it should thereupon be increased by one shilling—a provision which appears to be unique among African territories. *Ordinances, Northern Rhodesia,* 1925, p. 7.

[25] The average attendance in mission schools in 1924-25 was 47,594. *Report, Northern Rhodesia,* 1924-1925, p. 16.

disease from native stock and to improve the breed. There are, however, no native agricultural demonstrators in the country and the natives do not dip their stock. Despite a few native hospitals the native population has scarcely been touched by medical aid which is greatly needed in connection with sleeping sickness.

The Expenditures on Native Welfare are as follows:

NORTHERN RHODESIA

	Expenditure on All Races	Per Cent of Total Expenditures	Expenditure in Behalf of Natives	Per cent Native Expenditure of Total Expenditures	Amount Spent per 100 Natives
	£	%	£	%	£
Agriculture	10,353	2.24	3,450[1]	0.74	.35
Veterinary	19,512	4.23	6.520[1]	1.41	.65
Medical	38,357	8.30	35,300[2]	7.64	3.53
Education	23,620	5.12	8,048	1.74	.80
Totals	91,842	19.89	53,318	11.53	5.33

Total Expenditure—£462,019.

Source: 1926-27 Draft Estimates.

[1] These figures are estimated.

[2] This figure is estimated on the basis of the relative number of medical cases treated, Europeans and natives.

These expenditures are only about half the per capita expenditures made upon the natives in Tanganyika and in Uganda. Further expenditure on the promotion of native welfare which, in view of the special conditions of Northern Rhodesia are so urgently needed, depends upon increased revenue which in turn depends upon increased trade.

6. *The Watch Tower Movement*

Oddly enough, the very absence of communication has made the Northern Rhodesia native a migratory animal. It is not surprising, therefore, that he becomes contaminated with the unsettling movement of the western world. Native organizations, it is said, are rapidly spreading throughout Northern Rhodesia and one fanatical religious movement, which some people believe to be anti-European in character, has arisen. This is the Watch Tower movement which first put in its appearance in Nyasaland about 1906. Eight years later it was connected with the Chilembwe revolt. It has since spread to parts of the Congo, Tanganyika [26] and Northern Rhodesia. The movement appears to be animated by the "Millennium Dawn" doctrine of Pastor Russell and his followers in

[26] *Report on The Mandated Territory of Tanganyika,* 1923-24 (Col. No. 2), p. 22.

America and Europe. It also believes in immersion. Some native preachers connected with the movement, interpreting the Old Testament, literally assert that the Europeans are the modern Nebuchadnezzar who will eventually be overcome. In Rhodesia other Watch Tower preachers, declaring that war was anti-Christian, advocated passive resistance to the government requisition for porters during the World War. Forty of them were placed in jail at Livingstone for preaching this doctrine. The movement has also been puritanical in nature—it has demanded severe moral standards and it requires a minute knowledge of the Bible. At Livingstone a Watch Tower preacher recently baptized four hundred natives in the local river which they call Jordan. In the fall of 1925, another Watch Tower leader, proclaiming himself to be the Son of God, preached the doctrine that in order to gain eternal life man must first die. As a result of his exhortation about one hundred and seventy natives deliberately drowned themselves in a river near the Congo-Rhodesia border. This led both the Congo and the Rhodesia Governments to make efforts to apprehend the leader who was the cause of these deaths. The Rhodesian officials finally arrested and sentenced the leader to death. The general policy of the Rhodesian Government is to tolerate the movement until its members definitely violate law and order.

CHAPTER 16

NYASALAND

1. *The Protectorate*

To the west of Northern Rhodesia lies the Protectorate of Nyasaland, a territory which wraps itself around Lake Nyasa. Much of this part of Africa is inhabited by a stalwart native race, called the Yao, who are Mohammedans. In the nineteenth century, these Yao formed an alliance with the Arabs from Zanzibar under which both carried on extensive slave raids upon the Nyanja people, the aboriginal inhabitants of the country. These unfortunate people were also the subject of raids from the Zulus from the south—chiefly the Matabele. Following upon Livingstone's path, European missionaries, represented by the Universities Central Mission and two Scotch missionary societies, occupied Nyasaland in 1875, twenty years before it came under the administration of the British Government.[1] Finding it impossible to undertake the trade and transport necessary for their work, the Scotch mission brought about the organization of the African Lakes Company, which later came to occupy an important commercial and political position in the Protectorate.[2] These missionaries were followed by a number of planters who undertook the cultivation of coffee. Meanwhile the Europeans, led by the missionaries, were obliged to combat the Arab slave raiders. In the absence of British authority, they were compelled virtually to establish a government of their own. In 1885, the African Lakes Company made treaties with a number of the chiefs granting it certain administrative rights.

In order to clear up some of the conflicts which arose between these groups, the British Government, after having rebuffed the Portuguese

[1] Cf. Sir H. H. Johnston, *British Central Africa,* London, 1898, p. 66. A description of the people of this area will be found in A. Werner, *The Natives of British Central Africa,* London, 1906.

[2] The Scotch mission at first had in its employ several lay members who dealt harshly with the natives, as a result of which a Mr. Fenwick was killed. Despite this unhappy beginning, the Scotch mission has had one of the most successful records of all missionary enterprise in Africa. The Church of Scotland schools, under Dr. Laws, at Blantyre, are, according to the Phelps-Stokes commission, "one of the notable educational institutions in Africa." T. J. Jones, *Education in East Africa,* Phelps-Stokes Fund, New York, p. 203. The United Free Church of Scotland Mission under the capable leadership of Dr. Laws and Dr. Donald Fraser, has also done remarkable work, especially at the Livingstonia Institution.

efforts to establish a Central African Empire extending from Mozambique to Angola, proclaimed a protectorate over the Shire region in 1889, which in 1893 was named the Central African Protectorate. Between 1889 and 1891, Mr. (later Sir) H. H. Johnston, Her Majesty's Commissioner, negotiated a series of treaties with the chiefs in which they accepted British protection.[3] In 1891, Sir H. H. Johnston was made Imperial High Commissioner. In the following two years the British extirpated the Arab slave trade, and established a stable administration over a territory which in 1907 came to be known as Nyasaland.

2. *Certificates of Claim*

Perhaps the most difficult problem which the administration was called upon to solve was that of the land. Before and after the establishment of the protectorate, many settlers purchased land from chiefs, most of whom had no right to sell under native law and who were ignorant of the nature of the transactions. In many cases the claims of two settlers over-lapped each other. To clear up this situation, the Commissioner in 1892 examined the land claims of each settler. But, as he has written, "Even when land had been purchased, and the sale on the part of the chief was not repudiated, and the deed of sale was authentic, the concessionaire was required to show what consideration had been paid, and if the grantor was not considered to have received fair value for his land the grantee had either to supplement his first payment by another, or the area" was reduced. After such examination the government issued titles called certificates of claim.[4]

In making these cessions the chiefs in many cases had ignored the rights of their subjects who nevertheless continued to live upon the alienated land.

[3] The "Deed of Cession of Sovereign Rights" by Makwira, May 11, 1892, is a good example.

"I, Makwira, Chief in the Makololo country, do hereby certify that I have this day sold and made over absolutely to H. H. Johnston, Esq., C. B., Her Majesty's Commissioner for British Central Africa, all my right and title whatsoever to my country. Always excepting the lands, rights, and titles already sold by me. And I hereby bind myself not to sell any part or parcel thereof to any other person or persons without first obtaining the sanction in writing of Her Majesty's Commissioner or chief Representative of Government in British Central Africa. (Signature.)

"I, Henry Hamilton Johnston, Her Majesty's Commissioner and Consul-General, do hereby transfer the above rights and titles, as conferred on me by Chief Makwira, to Her Most Gracious Majesty the Queen. (Signature.)" *State Papers,* Vol. 85, 1892-1893, pp. 353-354.

[4] Johnston, *British Central Africa,* p. 113. Sir Harry goes on to say, "The fact is, that at the time the chiefs sold land to the Europeans they were very heedless of the results. All they desired was the immediate possession of the trade goods or money given in payment. The tenure of the land in reality was tribal; that is to say, theoretically the chief had no right to alienate the land, but he had assumed such right and his assumption was tacitly accepted by the people."

Wishing to protect their interests, the government inserted a clause in the certificate of claim or land title which it issued to the effect that no native villages or plantations existing at the time of the grant should be disturbed without the consent of the government. To quote Sir Harry Johnston again, "One of the results of the land settlement, therefore, was to completely free the natives from any dependency on the white settler, by restoring to them the alienable occupancy of their villages and plantations." [5]

We shall now examine the extent to which this result was achieved. At the present time, a quarter of the native population in the Zomba District and half of the population in Blantyre—having about seventy-three thousand huts—live upon European estates. Practically all of these estates are held under certificates of claim which contain the clause reserving to the natives the rights in the land which they originally occupied. But this security proved only temporary. Under their methods of agriculture, natives periodically changed the site of their gardens, so that it soon became impossible to identify the original settlements, the occupancy of which was guaranteed, from their subsequent holdings. Taking advantage of this situation, land owners adopted the practice of making agreements with natives under which in return for the right of staying upon and using the land, they would pay a rent to the landowner. In a decision in 1903, the High Court of Nyasaland declared that natives settled on the land at the time of issue of the certificate were not bound to pay rent and that the onus of proof that any particular native was not an original settler lay on the landowner. Following the recommendations of a Land Commission, the government in 1904 enacted a Native Locations Ordinance which authorized the governor to direct the landowners to set aside one-tenth of their undeveloped lands as native reserves which would become vested in village communities and upon which natives would be settled on the basis of eight acres per family. In return, each tenant would pay to the landlord an annual rent of four shillings per hut.[6] While this ordinance thus set aside the court decision, it attempted to give the natives security of tenure.

The governor did not, however, utilize his powers under the ordinance, apparently because of the opposition of the settlers to the expropriation of this amount of land. Meanwhile, landowners continued to make agreements obliging natives either to pay rent of four shillings a hut or to work for a period of one or two months during the planting season. While it does not appear that the natives were unfairly treated, their rights were

[5] *Ordinances of Nyasaland,* in force, 1913, p. 113.
[6] *Ibid.,* p. 502.

those of an ordinary tenant who was obliged to pay rent or perform service and who could be ejected at will. With the increase of the settler population and of land values, rents increased to eight shillings. As competition for labor increased, a tenant would be obliged to work long distances from his home; while in other cases, he would be forbidden to work for outside employers even after he had performed his service for the landlord.[7]

3. *The Chilembwe Rising*

In 1915, a rising occurred in Nyasaland, led by a native named John Chilembwe, who was educated in the United States in a negro Baptist seminary. The religious tenets of certain European and American missions such as the Church of Christ Mission, the Seventh Day Baptist Mission and the Watch Tower movement—which taught that the end of the world was at hand—apparently had some influence in provoking the arising.[8] Under the influence of their teaching, Chilembwe formed a mission of his own, and hoped to link together a number of independent native sects. He eventually planned to have the people on certain estates kill their masters. Chilembwe himself cut off the head of one estate manager and preached a sermon with it before him on the pulpit. The revolt was quickly suppressed and twenty natives executed.[9]

It appears that the economic grievances which we have just discussed lay at the bottom of the revolt. Chilembwe's headquarters were near the A. L. Bruce Estates, whose holdings cover some three hundred miles, and which had had a bad reputation for its treatment of natives. According to a Commission of Inquiry,[10] Chilembwe worked upon a "certain degree of discontent existing among a number of natives who were tenants on the Bruce land, or had been employed there, and also among natives living on a disputed area on the border of the estate, instilling into their

[7] *Report of a Commission to inquire into the Occupation of Land in the Nyasaland Protectorate*—10582—Zomba, 1921.

[8] According to a government report, "These are small Missions insufficiently financed, conducted by unsuitable persons and under no proper control. As a rule, they hold some doctrines which run counter to ordinary ideas and tend to unsettle the native mind; such for instance, as the doctrines that Saturday is the divinely appointed day of rest and that the end of the world is at hand." *Report of the Commission to inquire into the Native Rising within the Nyasaland Protectorate* [6819] Zomba, 1916.

[9] N. Leys, *Kenya,* London, 1925, Ch. XIII.

[10] "In accordance with the policy of the management of the estates not to allow any Christian Churches on the land, applications by Chilembwe for leave to build churches and schools were refused. One or two which were built by his followers without permission were destroyed by Mr. Livingstone, the Manager. . . . This was not the only occasion on which Chilembwe had come into conflict with Mr. Livingstone, and it is evident that he conceived a special grudge against him and other Europeans." *Ibid.,* p. 6.

minds the idea that they were being injured by European planters and more especially by the A. L. Bruce Estates."

The commission reported that "although the grievances of natives on these estates were no doubt exaggerated by Chilembwe for his own purposes," in certain respects their treatment was not satisfactory.

"We are of the opinion that Mr. Livingstone's treatment of natives was often unduly harsh, and apart from this the general system of estate management was unsatisfactory. The tenant system was that natives living on the land were compelled to work for the estates. No money rent was accepted. Natives had to work one month in the wet season for rent and another month also in the wet season for Hut Tax, that is, two months' work. A month was reckoned at twenty-eight days' actual work, and it was stated before the Commission that by various devices natives were compelled to work considerably longer periods, e.g., if a native did not complete his day's task, no credit was given to him for the time he had worked, and occasionally he had to work several days extra to make up for the day lost. The labour roll books of the estates were exhibited to the Commission and it clearly appeared from them that the safeguards laid down in the 'Employment of Natives Ordinances' for ensuring the proper payment of natives were not complied with. . . . While the native evidence must be received with caution, the Commissioners are of opinion that the treatment of labour and the system of tenancy on the Bruce Estates (labourers and tenants being practically interchangeable terms) were in several respects illegal and oppressive and that the conditions on the estates more especially on the Magomero estate directly conduced to the rising."

Apparently in an effort to carry into effect the recommendations of this commission, the Nyasaland Government enacted in 1917 the Native Rents (Private Estates) Ordinance [11] which forbade the exaction of service in lieu of rent but expressly recognized the right of landlords to charge rent to native occupiers not having rights under certificates of claim, the maximum of which was to be fixed by the government.[12] But as only those natives who had remained for the last twenty years on the same piece of land could establish such rights this act merely meant that while the landlord could not oblige them to perform free service, he could oblige them to pay rent. But in practice, the landlord refused to receive rent. What he wanted was the labor, and if a tenant declined to work, the landlord gave him notice to clear off the land. The Nyasaland Land Commission reported: "No reason for the notice need be given and unless the native can establish a right to free residence upon one of

[11] *Ordinances*, 1917, p. 32.

[12] In 1917, rents were fixed at from four to six shillings per occupier. *Nyasaland Rules and Orders*, 1917, C. 23.

the grounds already mentioned he must go." But in the Zomba and Blantyre districts, there was virtually no place for the native to go. Consequently he was, and still is, obliged to furnish from one to six months of free labor to a European landlord in return for occupying land which in some cases at least is his, according to native law, and which was presumably recognized as belonging to him in the certificates of claim. Thus the settlers of Nyasaland have defeated the intention of the ordinances of 1907 and 1917 to secure to the natives the rights presumably guaranteed to them in Sir Harry Johnston's land settlement. This intention has also been defeated by the difficulty of distinguishing between natives who occupied this land at the time the Europeans arrived and those who, attracted by the opportunity of European employment, have moved on to alienated land.

4. *Land Commission of 1921*

In 1921, the commission appointed to study this and other land questions frankly declared that for the time being "labour is the only return which the owners of agricultural estates will accept from native tenants." Crown land was so scarce in these two districts that the government could not possibly provide for the native population. It was therefore desirable, for the sake of the native, that private landlords should be induced to make the necessary provision for them. It believed that the system of labor tenancies should be recognized and that the period of work should be fixed at a maximum of two months, only one of which must necessarily be paid.[13] The East Africa Commission, which visited Nysaland in 1924, reported: "there seems to be grave doubt whether the demands for rent at present made by many of the estate owners on the resident natives are sound in law. . . ." [14]

It proposed the delimitation of native lands within estate boundaries and the vesting of such lands in Trust Boards.

It is understood that in 1926, the government convened a Round Table Conference of the various parties concerned which discussed a draft bill providing that the native tenant should pay an economic cash rent. At the option of the native, this rent could be redeemed by labor at the ordinary rate of pay for a certain period. Security of tenure was provided for a number of years, and no more than a certain proportion of the squatters could be given notice to quit the estate at the end of each quinquennial period. This draft bill proposal thus apparently rejects the proposal of

[13] This labor should be performed at a distance not more than four miles from the native's hut.

[14] *Report of the East Africa Commission,* Cmd. 2387 (1925), p. 110.

the East Africa Commission that native lands be delimited, because of the belief that it is more important to provide for the squatters who have moved on to European lands since the certificates of claim were issued than to attempt to unravel the rights of the existing inhabitants. The most essential provision of any settlement should be the abolition of this labor tax for private employers in favor of a cash rent, and security of tenure.

5. *The Question of Native Reserves*

It appears that the vast majority of land alienated to white settlers took the form of certificates of claim issued between 1892 and 1894, and represented, for the most part, land which settlers acquired from the natives themselves. The total area alienated in Nyasaland amounts to 3,705,255 acres, which includes 2,700,000 acres owned by the British South Africa Company in the North Nyasa District. In addition, the government has made grants, either in the form of freeholds or leases, amounting to about 258,000 acres. Nyasaland has alienated a greater proportion of its territory to Europeans than any other territory in East Africa.[15] Although the total area of the Protectorate is about twenty-five million acres, it is estimated that six million acres of land suitable for cultivation remained unalienated. The question as to whether or not, in the face of these alienations, the native population possesses sufficient land has recently been studied by the Land Commission already referred to. Assuming that the native population doubles itself in thirty years, the commission estimated that an area of eight acres per hut would provide the food supply of twice the present native population. According to this standard, the natives would require nearly 3,203,000 acres of land—while an additional five acres would be required for each head of stock—which would bring the total to about 3,574,000 acres or more than half the remaining land in the territory.

The available land is not, however, evenly distributed. In five districts of Nyasaland, natives do not possess the eight acres per hut which they should have under this proposed system. Particularly in the Lower Shore and Blantyre districts, a shortage exists. Elsewhere, the commission considered the advisability of setting aside reserves. But unlike the other governments of East Africa (excepting Tanganyika),[16] it is opposed to this policy for the following reasons:

"We believe that the institution of Native Reserves, by which we mean the collection of large numbers of natives in defined areas, would be an unwarrantable interference with the free occupation by the people of their native

[15] Cf. Vol. I, p. 513.

[16] Cf. Vol. I, p. 552.

land and would in addition be totally unsuited to their manner of life. The different tribes in this Protectorate are scattered widely about it and the mixture of them which it would be impossible to avoid if large numbers were collected in any one place would be a very great obstacle to successful administration. Their movements in large numbers from the sites on which they have already settled would be a great hardship.

"The domestic requirements of the native population make it necessary that villages should be scattered in places where water can be found. The provision of land for the production of food for a large number of natives collected in one place would entail on many the necessity of travelling long distances to their gardens. The imperfect sanitation of native villages also makes it very inadvisable that large numbers of them should be collected in a restricted area. Such a restriction would also mean that many natives working on European estates would be obliged to live at greater distances from their work than is desirable both for their own sakes and for the sake of the settler by whom they are employed.

"To avoid these disadvantages Reserves would have to be of such size as practically to allow of the continuation of present conditions. We would prefer to retain the advantage of present conditions without the defects of the reserve system." [17]

According to this commission, about seven hundred thousand acres could be set aside for areas to which alienation should be confined. But the governor of Nyasaland has recently declared, according to the East Africa Commission, that there were already "feelings of uneasiness among the natives regarding the future of their land," a feeling which has found expression at nearly every meeting of headmen since his arrival. He considers that the blocks of Crown land to be set aside for further European occupation should not be large or numerous, and that the amount of land which is suitable for that purpose, and which at the same time is not required for the present or future use of the natives, is not great. It is his considered opinion that the prosperity of the protectorate depends on the development of its tropical agricultural resources, partly by a limited number of European planters, but principally by the natives themselves with European instructors.[18]

6. *Cotton Cultivation*

At the present time, the government is pushing the cultivation of cotton by the natives. In order to prevent the fluctuation in prices and the sudden

[17] *Report, cited,* p. 5.

[18] The East Africa Commission shared these opinions and considered "that all Crown Lands not yet leased, with the exception of the small areas referred to by the Governor, should be vested in a Trust Board with similar safeguards and powers to those which we have recommended in the case of Kenya. . . ." *Report, cited,* p. 109.

acquisition of wealth, the government and the British Cotton Growers' Association entered into a Cotton Buying Agreement in 1923 which gives to the association the right for five years to purchase the entire native crops at prices arranged in advance by the Department of Agriculture and the association.[19] One half of any ascertained profits go to the government, but all losses are borne by the association. The purpose of this agreement was to prevent the decline in the price of cotton after planting had taken place, which discourages native production. Under the agreement, native production has increased from 797 tons in 1923 to 2,835 tons in 1925.[20] In the first two years, a profit was returned to the government. Many European traders resented the negotiation of this agreement which deprives them of a market. But it appears that so far the plan has benefited the native since he has received, in a period of falling prices, a better price for his produce than would otherwise have been the case. Nevertheless, there is the possibility that in some years, the association will profit from sudden increases in prices which may be larger than decreases in other years.

At the present time, sixty-three per cent of the cotton produced in Nyasaland is grown by natives, the remainder being grown by Europeans employing native labor. The British Cotton Growing Association states that "the natives prefer to cultivate their own lands." [21]

Objection to the cultivation of cotton has been made on the ground that it will interfere with the labor supply of the Nyasaland settler. But the majority of the Land Commission was of the opinion it would be "unfair to the native" to check this industry for this reason.[22]

The most pressing need of Nysaland is cheaper transport. Because of the absence of these facilities, the per capita trade and revenue of Nyasaland is the smallest of any British colony in Africa, excepting Northern Rhodesia.[23] In order to pay their taxes, the natives in the absence of outlets for their products must seek work on the outside. It is estimated that thirty thousand Nyasaland natives thus work in other colonies during the year.

7. *The Settlers' Protest*

Except for the land-labor situation, which seems to be acute in the Zomba and Blantyre districts and which presumably will be cleared up in the future, the Nyasaland Government now appears to be committed

[19] *Nineteenth Annual Report,* 1923, British Cotton Growing Association, Manchester, p. 29.
[20] *Twenty-first Annual Report,* 1925, British Cotton Growing Association, p. 38.
[21] *Ibid.,* p. 38.
[22] *Report, cited,* p. 7.
[23] Cf. the comparative table, Vol. II, p. 889.

to a policy of native development, even at the expense of white settlement.[24] It is a policy which, in the recent encouragement of the cultivation of native tobacco, has brought forth the criticisms of European planters who complain that native cultivation injures labor supply.

In October, 1926, The Nyasaland Planters' Association unanimously approved a report which declared that "The existing labour shortage is apparently felt most by tobacco growers, and is in our opinion chiefly due to the rapid spread of the Native tobacco industry and the incessant propaganda spread by buyers, planters and others to induce Natives to leave their work on European estates (which is the actual effect) and to take up village tobacco cultivation. . . . The obvious end [of native cultivation] is that practically every Native in the Protectorate will take up tobacco growing. . . . We consider the present conditions under which European planters are endeavouring to work are obviously unfair and almost entirely hopeless. . . . It is not too much to say that the whole Protectorate is being turned by interested parties into a huge Reserve for the production of rent-free, cheap, Native tobacco, to the detriment of the European planter's labour supply and the future of the European agricultural industry." [25]

This statement is further evidence that the development of native agriculture diminishes labor available for European farmers.[26]

8. *Conclusion*

Such is the situation in the two Rhodesias and Nyasaland. White settlement has proceeded furthest in Southern Rhodesia which is now a self-governing colony, subject to imperial control over native affairs which will probably not be of much importance. In all three of these territories,

[24] Native administration in Nyasaland is based on the District Administration (Native) Ordinance, 1924 (*Ordinances,* 1924, p. 64) which authorizes the Resident to divide a district into village areas each having a headman. The district Resident may appoint not more than ten village councillors to advise the headman, and the headman may hold court.

Village areas may be grouped in sections each under a principal headman, and the Provincial Commissioner may constitute a section council composed of the headman and such other natives as he may think fit. These sections have advisory power. A principal headman may hold court. The Governor may also establish district councils.

Every adult male native is liable to perform imposed labor for not more than twenty-four days a year "in the construction or maintenance of any work of a public nature for the benefit of the village area or section to which he belongs."

Natives are also liable to compulsory paid labor for government transport and for the construction of public buildings, railways, telephone lines, sanitary work, etc., and such other works of a public nature provided for out of public monies as the Governor may with the prior approval of the Secretary of State declare to be a work of public nature.

[25] Text published in *East African Standard,* March 12, 1927, p. 13.

[26] Cf. Vol. I, p. 391.

land was originally alienated to Europeans with little regard to the rights of the original inhabitants, and a system of industry was introduced with little regard to native welfare. A Belgian observer pointed out in 1913 that the policy in both Rhodesias was one of *prolétarisation*. He declared: ". . . The Company first of all confiscated the lands and the mines of the country and left to the natives only the precarious possession of certain lands. In our opinion, this was a grave injustice. The natural riches were then progressively placed at the disposal of the capitalists of the white race, great or small. Obliged to import labor, and desirous of utilizing the natives living in the country as manual laborers, they hoped little by little to generalize the wage earning régime. The policy which dominates the country is the preoccupation of the interests of the whites and the absence of a veritable social policy inspired by the interests of the blacks and tending notably to facilitate the formation of a numerous class of native peasant proprietors." [27] The importance of adopting this policy is now coming to be realized in all of these three territories; but its fulfilment is difficult as long as land alienations increase the number of Europeans who come to rely upon native labor.

As far as land is concerned, Southern Rhodesia has, however, made a settlement which is more liberal to the natives than that made by either the Union of South Africa or Kenya. It is now setting aside native purchase areas which will make the increase of these reserves probable. Apparently the Government of Nyasaland has decided to make few alienations of land to Europeans in the future, because of the acute situation which already exists in a number of districts. The land situation is most critical in Northern Rhodesia, where the government, under the pressure of the South Africa Company, which receives half of the profit from the land sales, is contemplating the establishment of native reserves and a policy of white settlement. Further land alienations to Europeans would increase the demand for labor. While this new opening for employment would lead natives who now migrate to Southern Rhodesia and the Congo to work nearer home, which would for the moment be socially beneficial, extensive alienations of land could create the danger of prejudicing the development of native agriculture, which is necessary to social development, to the increase of population, and to the extermination of sleeping sickness.[28] To make native agriculture in Northern Rhodesia possible, the restriction of land alienation is necessary as well as the establishment of a system of communications. The latter project deserves the financial support of the Imperial Government.[29]

[27] H. Rolin, *Les Lois et l'Administration de la Rhodesia,* p. xlv.
[28] Cf. Vol. II, p. 580.
[29] The East African Guaranteed Loan Committee recommended that one hundred and eighty-five thousand pounds out of the proposed ten million pound loan to East Africa should be expended on road construction in Northern Rhodesia. *Report.* Cmd. 2701 (1926), p. 27.

APPENDIX—THE RHODESIAS AND NYASALAND

IV. Native Welfare Expenditures—Nyasaland

IV

Native Welfare Expenditures—Nyasaland

1926

	Amount £	Per hundred £	Per Cent of Total Expenditures (£320,857)
I. Agriculture			
Administrative & Field	5,808	.48	1.8
Research	2,793	.23	.9
Forestry	4,718	.39	1.5
Total	13,319	1.10	4.2
II. Medical			
Medical	26,866	2.23	8.4
Sanitary	3,307	0.27	1.0
Total	30,173	2.50	9.4
III. Education			
Total	4,000	0.33	1.2
IV. Veterinary			
Total	4,626	0.38	1.4
Total Expenditure	52,118	4.31	16.2

SECTION IV.

KENYA



British East Africa

CHAPTER 17

THE EUROPEAN OCCUPATION OF EAST AFRICA

1. *The Arab Invaders*

THE meeting place of two civilizations, East Africa received the imprint of Asia long before it came in touch with the West.[1] As early as the eighth century A.D., Oman Arabs, borne southward in their open dhows by gentle monsoons, founded the towns of Kilwa, Mombasa and Zanzibar. In the tenth century, the Zenj Empire—a federation of Arab states which controlled the coast of what is now Kenya and Tanganyika—was founded. Far from being savage kingdoms, these principalities were Moslem states in which silken-clad Arabs prayed in stone mosques and discussed the art of the Moors. The Zenj Empire lasted until its destruction by that great Portuguese interloper, Vasco de Gama, who discovered the coast of East Africa in 1498. Soon after this date, the Portuguese obliged the Arab rulers of Kilwa and Zanzibar to pay them tribute; while in 1505 Francisco d'Almeida laid siege to the Arab stronghold at Mombasa. For the next fifty years the Portuguese ruled over the East Coast largely for the purpose of maintaining an entrepôt for their possessions in the Orient. But in 1585 and in 1589 Turkish corsairs, having formed an alliance with Zulu invaders called the Zimbas, drove the Portuguese out of a number of towns.[2] Despite this setback, the Portuguese continued to control the East Coast until 1627 when the native population revolted. While the Portuguese suppressed the revolt with much severity, their position was greatly shaken. Meanwhile, Alfonso de Albuquerque, who had succeeded in fastening Portuguese rule upon the Arabs of Muscat, was driven out of Muscat by Sultan Seif who, adding insult to injury, now made up his mind to expel the Portuguese from East Africa as well. After a long period of fighting, Seif took Mombasa

[1] Hindus are said to have come as early as the seventh century B.C. to the East Coast where they have ever since maintained a predominant influence. The first foreigners actually to settle on the East African coast are said to have been Jews sent out by King Solomon about 1000 B.C., who settled in the islands of Grand Comorro and Madagascar. Cf. W. H. Ingrams and L. W. Hollingsworth, *History of Zanzibar,* New York, 1925.

[2] Cf. J. Strandes, *Die Portugiesenzeit von Deutsch und Englisch-Ostafrika,* Berlin, 1899, pp. 81 ff.

in 1698 and soon made himself master of the entire coast as far as the Rovuma River. Although the Portuguese, in a desperate effort, recaptured Mombasa in 1727, they were once more expelled—this time for good—and the chief reminder at the present time of their romantic occupation of East Africa is picturesque Fort Jesus at Mombasa, which the British use as a jail.

Henceforth Muscat kings ruled over both Oman and the East Coast of Africa. Seyyid Said, who succeeded to the throne of Oman in 1807, became so enchanted with the island of Zanzibar, lying a few miles off the African coast, that in 1840 he decided to move his permanent residence there, leaving Muscat to be ruled over by a son. At this time the Kingdom of Muscat was recognized as an independent state by European powers and the United States whose sailors came into contact with Zanzibar en route via the Cape of Good Hope and the East Coast for the Orient. It appears that the United States was the first government to make a commercial treaty with the Sultan. In an agreement of 1833, the Sultan granted American citizens the right to trade in his kingdom and he agreed that American vessels should not pay more than five per cent duties on cargo landed. American citizens could reside in the Sultan's ports without paying any taxes other than the import duty. The agreement also authorized the President of the United States to appoint consuls to reside in the ports of the Sultan who should be the exclusive judges of all disputes to which Americans were parties.[3]

In 1840 the United States dominated Zanzibar's trade because of American whalers bound for the Orient who stopped at this midway point for supplies and who did a trade in ivory, copak, hides and apparently in contraband slaves.

In a series of treaties, the Sultan granted extra-territorial privileges to seven other governments.[4] The consuls of these governments tried cases in which their respective citizens were involved.

Upon the death of Seyyid Said in 1856, his two sons quarreled violently over the succession. To maintain order, the British Government intervened and induced the two brothers to submit their dispute to the arbitration of the Governor-General of India—the representative of a country having great commercial interests on the East Coast. In this award, the Governor-General gave one brother the Kingdom of Muscat

[3] Treaty of September 21, 1833, with Muscat, Malloy, *Treaties of the United States*, Vol. I, p. 1228. In a treaty of July 3, 1886 the United States agreed that the Sultan of Zanzibar should levy a duty not exceeding 25 per cent on liquor imports containing more than 20 per cent alcohol. The treaty gave to American consuls all the rights enjoyed by consuls of the most favored nation. Malloy, *cited*, Vol. II, p. 1899.

[4] Cf. Hertslet, *Map of Africa by Treaty*, Vol. II, pp. 925 ff.

and the other the Kingdom of Zanzibar. But he declared that the ruler of Zanzibar should pay annually to the ruler of Muscat a subsidy of forty thousand crowns, which was to be held to be a "final and permanent arrangement, compensating the ruler of Muscat for the abandonment of all claims upon Zanzibar and adjusting the inequality between the two inheritances. . . ." [5] Needless to say, Zanzibar does not pay this subsidy at the present time.

2. *The Slave Trade*

Throughout the most of the nineteenth century this kingdom of Arabs not only ruled over Zanzibar but over a number of towns along the African mainland through Arab officials called Akidas and Jumbes.[6] From Zanzibar as a base, Arab traders organized caravans which journeyed into the interior of Africa carrying wares which they sold to natives in return for ivory and slaves. They easily procured the latter from native peoples victorious in inter-tribal wars. Thousands of these slaves came from what is now the Belgian Congo, Nyasaland, and Northern Rhodesia. The most familiar route along which slaves were obliged to carry ivory in their dismal march to the sea followed the towns of Ujiji, Tabora, and Bagamoyo which the Arabs built as centers for their marauding activities and which remain until the present day. Arriving at the sea-coast, the Arabs sold the ivory to Indian traders, while they usually sold the slaves at the Zanzibar slave market, the largest market in the world. Purchasers came from Arabia, Persia, Egypt and other eastern countries; and in the eighteenth and nineteenth centuries they also came from Christian countries in the west. Local Arab plantation owners likewise purchased slaves to cultivate vast areas of cloves and cocoanut.

These slaving operations gradually depopulated the areas near the coast and led the caravans further and further into the interior of Africa. Livingstone and others were of the opinion that for every slave that came to the coast ten lives were lost in the interior.

In 1871 the Committee on the East African slave trade described the traffic as follows:

[5] *Ibid.*, Vol. II, p. 962.

[6] Sir Arthur Hardinge reported in 1896 that "In what is now German East Africa his authority [that of the Sultan] was very real. Pangani, Sadani, Bagamoyo, Dar-es-Salaam and Kilwa were all governed by Walis, who were as completely his nominees and dependents as those who ruled for him at Mombasa and Lamu, and the whole coast opposite the two islands was effectively administered by them, as well as the great trade routes from Bagamoyo to Tabora, Ujiji, and Lake Nyanza, at all the centers along which he had his officers; but the northern or, as it now is, British portion of his dominions was at once poorer and more barbarous than the Southern, and was, therefore, comparatively neglected and left to the local chieftains." *Recent Rebellion in British East Africa,* C. 8274 (1896), p. 88.

"The persons by whom this traffic is carried on are for the most part Arabs, subjects of the Sultan of Zanzibar. These slave dealers start for the interior, well armed, and provided with articles for the barter of slaves, such as beads and cotton cloth. On arriving at the scene of their operations they incite and sometimes help the natives of one tribe to make war upon another. Their assistance almost invariably secures victory to the side which they support, and the captives become their property, either by right or by purchase, the price in the latter case being only a few yards of cotton cloth. In the course of these operations, thousands are killed, or die subsequently of their wounds or of starvation, villages are burnt, and the women and children carried away as slaves. The complete depopulation of the country between the coast and the present field of the slave dealers' operations attests the fearful character of these raids.

"Having by these and other means obtained a sufficient number of slaves to allow for the heavy losses on the road, the slave dealers start with them for the coast. The horrors attending this long journey have been fully described by Dr. Livingstone and others. The slaves are marched in gangs, the males with their necks yoked in heavy forked sticks, which at night are fastened to the ground, or lashed together so as to make escape impossible. The women and children are bound with thongs. Any attempt at escape or to untie them, or any wavering or lagging on the journey, has but one punishment—immediate death. The sick are left behind, and the route of a slave caravan can be tracked by the dying and the dead. The Arabs only value these poor creatures at the price which they will fetch in the market, and if they are not likely to pay the cost of their conveyance they are got rid of. The result is, that a large number of the slaves die or are murdered on the journey, and the survivors arrive at their destination in a state of the greatest misery and emaciation."[7]

A dhow in which the slaves were transported to Zanzibar, which averaged about eighty tons burden, usually carried two hundred slaves. When chased by a British cruiser, the dhow owner would sometimes throw the slaves overboard. Occasionally cargoes in the southwest monsoon would go direct to Muscat from Kilwa, a voyage of forty days. *The Times of India* in 1872 described one of these dhows as follows:

"The number of slaves it was impossible at the time to estimate; so crowded on deck and in the hold below was the dhow, that it seemed, but for the aspect of misery, a very nest of ants. The hold, from which an intolerable stench proceeded, was several inches deep in the foulest bilge-water and refuse. Down below, there were numbers of children and wretched beings in the most loathsome stages of smallpox and scrofula of every description. A more disgusting and degrading spectacle of humanity could hardly be seen,

[7] *Report from the Select Committee on Slave Trade (East Coast of Africa)*, Vol. XII, 420 (1871), p. iv.

whilst the foulness of the dhow was such that the sailors could hardly endure it. When the slaves were transferred to the *Vulture* (a British cruiser who captured the dhow in the Persian Gulf), the poor wretched creatures were so dreadfully emaciated and weak, that many had to be carried on board, and lifted for every movement. How was it that so many survived such hardships was a source of wonder to all that belonged to the *Vulture*. On examination by the surgeon, it was found that there were no less than thirty-five cases of smallpox in various stages; and from the time of the first taking the dhow to their landing at Butcher's Island, Bombay, fifteen died out of the whole number of one hundred and sixty-nine, and since then there have been more deaths among them. But perhaps the most atrocious piece of cruelty of the Arabs was heard afterward from the slaves themselves; viz., that at the first discovery of smallpox amongst them by the Arabs, all the infected slaves were at once thrown overboard, and this was continued day by day, until, they said, forty had perished in this manner. . . . Many of the children were of the tenderest years, scarcely more than three years old, and most of them bearing marks of the brutality of the Arabs in half-healed scars, and bruises inflicted from the lash and stick."[8]

This instance may have been exceptional; in other cases slaves arrived in Zanzibar content with the treatment which they had received from their Arab masters, who, it appears, were more lenient than European slavers.

Far from attempting to suppress the slave trade, the Sultan of Zanzibar originally encouraged it as it provided him with a lucrative source of revenue. His only interest in the hinterland of the East African coast was in the ivory-slave traffic. Slavers were required to pay an export tax of two dollars a head on slaves shipped from Kilwa to Zanzibar and four dollars a head on slaves shipped to Lamu. An export tax of two dollars a head was also imposed on slaves shipped out of Zanzibar. The proceeds of these taxes brought to the Sultan about seventy-five thousand dollars a year.[9] He did not attempt to organize an administration over the tribes in the interior. Consequently, when the Berlin Conference of 1885 laid down the doctrine of "effective occupation," as a requisite of sovereignty, the Sultan vigorously protested.

3. *The British Fight Against the Slave Trade*

It is impossible to understand the reasons for the European occupation of East Africa without taking into consideration the slave trade which the Arabs carried on in this part of the world. While this trade originally worked to the profit of Europeans as well as Orientals, the leading powers soon declared the traffic illegal—England in 1807, and France in 1848.

[8] Quoted in R. N. Lyne, *Zanzibar in Contemporary Times*, London, 1905, p. 63.
[9] *Ibid.*, p. 65.

Despite these laws a European market still existed which made it worth while for the Arabs to continue the traffic. As early as 1822, an English naval captain induced Seyyid Said to sign an engagement providing for the prohibition of the sale of slaves to Christians throughout his dominions and the transport of slaves to Christian countries. He later agreed that H.M. cruisers could seize all Arab ships with slaves on board found to the eastward of a line drawn from Cape Delgado and the Gulf of Cambay. In 1839, this line by agreement was moved westward so as to exclude the trade from the whole of the Indian coast.[10] It is stated that this treaty diminished the Sultan's revenue to the extent of one hundred thousand crowns.

Meanwhile the slave trade continued full blast in the Portuguese possessions of East Africa. According to one authority, twelve thousand slaves were exported from Quilimane and Mozambique to Brazil and Cuba in 1836.[11] The Portuguese Government collected a duty of seven dollars per slave exported. So vigilant was the British squadron stationed off the East Coast in apprehending Portuguese slaves that the price of slaves increased from ten dollars to forty dollars in 1843.

Meanwhile the British Government was urging Seyyid Said to suppress the slave trade altogether. But this proposal alarmed him—the greater part of his revenue came from duties on these slaves—and he bore the distinction of being the greatest slave-trader in the world. A compromise was finally reached in the Agreement of October 2, 1845, which provided for the suppression of the export of slaves from the Sultan's African dominions and the prohibition of the import of slaves from any part of Africa into his possessions in Asia.[12] This agreement thus allowed the trade between African ports and with Zanzibar to continue. It also granted to British ships the right to seize any of the Sultan's vessels engaged in the illicit slave trade. In 1848 and 1849 the Persian Government and several Arab chiefs in the Persian Gulf promised to prohibit the importation of slaves by sea. Apparently to enforce these engagements, the British Government instructed the Cape of Good Hope and East Coast of Africa squadrons to cruise as far north as Mombasa, while a squadron of the Indian Navy cruised north of this line. These were the days before condensers and propellers,[13] and the officers and men suffered many hardships in their efforts to suppress a traffic which the people of England had come to believe was inhuman. These squadrons had almost exterminated the

[10] Lyne, *cited*, p. 37. [11] Lt. Bosanquet, *Ibid.*, p. 37.
[12] Agreement of October 2, 1845, *British and Foreign State Papers*, Vol. 35, p. 632.
[13] Lyne, *cited*, p. 43.

ocean-born slave traffic to the west coast when the Crimean War broke out in 1854. Its attentions now concentrated in Europe, the British Government relaxed its energies and the export of slaves from the East Coast underwent a temporary revival. "An American merchant actually published his opinion in a United States journal that the slave traffic on the East Coast of Africa might be carried on with safety." [14] A number of French ships carried slaves to Reunion; while Spanish ships carried them to Havana. The traffic from the East Coast to the Western World was finally brought to an end by captures of British cruisers in 1860.

Henceforth the Arab caravans diverted their traffic to the northern ports of Kilwa and Bagamoyo where slaves continued to be exported to ports in Arabia and Persia. Northern Arabs came down to the coast for these slaves where they frequently defied the authority of the Sultan of Zanzibar. "Kidnapping went on up and down the coast; in the season the people of Zanzibar were afraid to stir out of their houses after dark, and all who could do so sent their children and young slaves into the interior of the island for safety. Armed bands paraded the town. . . ." [15]

The trade was still legal between Kilwa and Lamu, and during the five years 1862-1867, ninety-seven thousand slaves were exported from Kilwa. It was believed that at least seventeen thousand of these slaves were destined for foreign ports in defiance of the treaty of 1845. Meanwhile the East India squadron, which in 1867 consisted of seven ships, attempted to catch the dhows engaged in this bootlegging traffic. But their efforts proved of little avail. As long as it was legal to ship slaves out of Kilwa it was impossible to prevent them from being exported to illegal destinations. If the slave traffic in Persia and Arabia were to be abolished, its source must be stamped out. In July, 1871, a Select Committee of the House of Commons inquired into the whole question of the slave trade in East Africa; two years later Sir Bartle Frere was sent out to negotiate a treaty suppressing the traffic. This treaty, signed on June 5, 1873,[16] prohibited the export of all slaves from the mainland regardless of destination, and provided for the closing of all public slave markets in the Sultan's Dominions, the protection of all liberated slaves, and the prohibition by Her Britannic Majesty of all natives of Indian states under British protection from possessing slaves. Seyyid Barghash, the Sultan of Zanzibar, really enforced this treaty, as a result of which the price of slaves in Zanzibar doubled.

Despite the efforts of the Sultan, the smuggling of slaves from the mainland to Zanzibar and Pemba continued and Arabs and half-castes

[14] Lyne, *cited*, p. 44. [15] *Ibid.*, p. 64.
[16] Treaty of June 5, 1873, *British and Foreign State Papers*, Vol. 63, p. 173.

continued to bring caravans of slaves, estimated to number twelve thousand annually, out of the interior to the coast.

It appears that the British first became interested in the East Coast of Africa through India. In 1862 fear of French designs upon East Africa led the British Government to induce the French Government to enter into a declaration in which the two powers bound themselves to respect the independence of both Muscat and Zanzibar.[17] In 1866 the British Government appointed Dr. (afterwards Sir) John Kirk as Vice-Consul of Zanzibar, an extraordinary individual who soon gained a great personal influence over the Sultan.

In 1872 Sir William Mackinnon, chairman of the British Indian Steam Navigation Company, established a line of steamers connecting Zanzibar with India and Europe—a line which still operates to-day. In 1877 the Sultan offered Sir William a concession of the customs and administration of his dominions for seventy years, which he reluctantly declined because he could not obtain the consent of the British Foreign Office.[18] Had this offer been accepted the British Government would have become master of the whole East Coast of Africa north of the Rovuma much sooner than it did. Despite the refusal to take over this territory, the British continued their efforts to combat the slave traffic.

In 1876 Dr. John Kirk induced the Sultan to prohibit the arrival of the slave caravans from the interior.[19] Slaves arriving at the court were to be confiscated. The Sultan's troops attempted to suppress the activities of slavers at Kilwa; and in 1877 the Sultan removed from office the Arab Governor who had been participating in the trade. Since the regular army proved unable to cope with the slave raiders, the Sultan, at the suggestion of Dr. Kirk, organized a new force armed with European weapons and drilled in European style under an English officer. In 1880

[17] Declaration of March 10, 1862, Hertslet, *cited,* Vol. I, p. 547.

[18] P. J. McDermott, *British East Africa, A History of the Imperial East Africa Company,* London, 1895, p. 3. A more recent writer declares that the Sultan did not "voluntarily" offer thus to cede his dominions. L. Woolf, *Empire and Commerce in Africa,* London, p. 235.

[19] Proclamation of April 18, 1873, *British and Foreign State Papers, cited,* Vol. LXVII, p. 456.

Illuminating accounts of the details of the traffic and the efforts to suppress it are given in diplomatic and consular correspondence published in *British and Foreign State Papers* of this period.

That Europeans were not themselves guiltless is shown by a communication to the Earl of Derby from the Anti-Slavery and Aborigines Protection Society, protesting against the shooting with explosive bullets of a large number of natives by Mr. Stanley. It declared: "Mr. Stanley's narrative contains no evidence to justify the belief that the natives intended to massacre his party; but even if his surmise were proved to be correct, we venture to submit that the murderous acts of retaliation he committed were unworthy of a man who went to Africa professedly as a pioneer of civilization." *State Papers, cited,* Vol. LXVII, p. 469.

this force, under British command, went inland in an effort to suppress plunderers. In 1880 Captain Brownrigg of H.M.S. London was killed by Arabs in a dhow illegally flying the French flag. The British in command of the Sultan's force now took decisive measures to punish the murderers and to bring about the downfall of the semi-independent chiefs who had been defying the wishes of the Sultan. While as a result, the power of the Sultan was increased, the influence of General Mathews, in command of the Sultan's army, in addition to that of Dr. Kirk, became greater than ever. In 1883 the British Government appointed vice-consuls at Mombasa, Kilwa and Lamu—country then within the Sultan of Zanzibar's domain. The slave trade nevertheless continued—caravans kept pouring out of the interior—and it is doubtful whether the Sultan of Zanzibar, unaided, could have suppressed this traffic.

4. *The Chartered Companies*

Meanwhile European travellers were pushing into the interior of a continent so far unknown and unpenetrated by the white man. In 1882-1884 Mr. Joseph Thomson, an English explorer, travelled from Mombasa to Busoga. In 1884 Mr. H. H. Johnston carried on explorations at Mt. Kilimanjaro; at the same time he negotiated a number of treaties with native chiefs. In the following year the Emperor of Germany granted a charter to the Society for German Colonization. Its leading agent, Dr. Carl Peters, signed a number of treaties with native chiefs, purporting to establish a German protectorate, which covered an area of sixty thousand miles in what is now northern Tanganyika. The next year Dr. Peters founded the German East Africa Company to which he transferred these treaty rights. The German Emperor thereupon announced the establishment of a German protectorate over the area concerned. The Sultan of Zanzibar protested: "These territories are ours, and we hold military stations there, and those chiefs who proffer to cede sovereign rights to the agents of the Society have no authority to do so; these places have been ours from the time of our fathers." The German Government declared that while it would respect the rights of the kingdom of Zanzibar, these rights did not extend into this interior region over which its protection had been established. The British, who had guaranteed the independence of the Sultan's domain along with France in 1862, were naturally concerned. To determine the extent of this guarantee, the British induced the French and German Governments to agree to a Delimitation Commission which should define the territory of the Sultan to be respected by the powers. In a procès-verbal, June 9, 1886, dele-

gates of the three governments recognized the sovereign rights of the Sultan of Zanzibar over the islands of Zanzibar and Pemba, and over the coast running inland to the extent of ten miles. This declaration thus removed the Sultan's claim over the interior which was shortly afterwards divided up into spheres of influence between England and Germany.[20] In return Germany acceded to the declaration of 1862 in which France and England had promised to respect the independence of Zanzibar.[21]

But the interior could not be administered without some control over the coast which had been recognized as part of the Sultan's dominions. To gain the necessary authority over the mainland, the British East Africa Association, which later became the East Africa Company, obtained in 1887 from the Sultan a concession extending from Wanga to Kipini which authorized the Company to collect taxes, appoint commissioners to administer the districts, collect customs, and regulate trade and commerce for a term of fifty years.[22] The Association agreed to pay to the Sultan the whole amount of the customs duties which he had hitherto received, estimated at £11,000, plus 50 per cent of the additional net revenue. Having obtained this concession, the Company proceeded to negotiate treaties with tribes in the interior to obtain a legal basis for controlling the country. In 1888, the Association secured a charter from the Queen, which authorized it to retain the full benefit of these grants.[23]

In requesting a charter, the petitioners stated that as a result of its administration of this territory, "the condition of the natives inhabiting the aforesaid territories and regions would be materially improved, and their civilisation advanced, and an organisation established which would tend to the suppression of the slave trade in such territories, and the said territories and regions would be opened to the lawful trade and commerce of our subjects and of other nations."

In 1888 the Sultan of Zanzibar also leased his territories from the Rovuma River to the Umba to the German East Africa Association,[24] following which a large number of Germans entered to take over the

[20] Agreement of October 29, 1886, Hertslet, *cited,* p. 615. This division, which gave to Germany what became German East Africa and to England British East Africa and Uganda, was made definitive in the Agreement of July 1, 1890. Hertslet, *cited,* p. 642.

This is not the place to go into the difficulties over the Witu concession, the Rovuma boundary and other diplomatic questions not directly related to the native problem. A full discussion of these questions may be found in P. L. McDermott, *British East Africa,* Ch. III, IV, XIV.

[21] Hertslet, *cited,* pp. 547, 621.

[22] For the text, see McDermott, *cited,* p. 457.

[23] For the text, see McDermott, *cited,* p. 457.

[24] For the text, see Hertslet, *cited,* p. 933.

administration. In 1898 a revolt against this foreign authority on the part of the Arabs occurred.

By 1890 the situation in regard to the Zanzibar empire was that the Sultan had leased the coast to these two Companies, while the hinterland had been divided between the German and British Governments. Only the islands of Zanzibar and Pemba remained "free."

The final step in the European occupation was in 1890 when the Sultan "freely and unreservedly" accepted the protection of the British Government. He also agreed to abide by any equitable arrangement made by the British Government regarding the retention by Germany of the ten-mile strip. In return the British Government guaranteed the maintenance of the throne of the Sultan of Zanzibar.[25] Germany recognized the British protectorate over Zanzibar in return for the cession of Heligoland,[26] while the French recognized it in return for the British recognition of the French protectorate over Madagascar.[27]

In the same year European governments signed the Act of Brussels in which they agreed to take a number of specific measures to put down the slave traffic within their respective territories.[28]

In October, 1890, the Sultan of Zanzibar agreed to the cession of the ten-mile coastal strip under German occupation and the Island of Mafia to Germany in return for a payment of two hundred thousand pounds.

5. *The Ten-Mile Strip*

The disposition of the ten-mile strip in the British sphere was not so simple. To understand the difficulties which now arose, one must recall the Act of Berlin which prevented the governments from levying any import duties in their African territories. So great were the financial needs of Zanzibar that the Sultan acceded to this Act subject to the reservation that he would not be obliged to accept the principle of free trade. It was under these conditions that the British East Africa Company received a concession from the Sultan to the mainland which included the right to collect customs. But following the establishment of its protectorate, the British Government placed the dominions of the Sultan under the free trade system.[29] This action wiped out the revenue which the British

[25] Hertslet, *cited,* Vol. II, p. 763. [26] *Ibid.,* p. 651.
[27] *Ibid.,* p. 570.
[28] The preamble of this act stated that the governments were "animated by the firm intention of putting an end to the crimes and devastations engendered by the traffic in African slaves, of effectively protecting the aboriginal populations of Africa, and of assuring to that vast continent the benefits of peace and civilization. . . ." Hertslet, *cited,* p. 48.
[29] Cf. the Notification to the Treaty Powers, June 23, 1892. Hertslet, *cited,* p. 993.

East Africa Company had obtained from customs duties and led it to make a vigorous protest that a contract could not be altered without the consent of both parties. In reply, the British Government claimed that the relations between the Company and the Sultan were not based upon a contract but were derived from a "delegation." [30]

The position of the Company was made worse by the fact that it could not impose taxation upon foreign traders because of the extra-territorial treaties. Notwithstanding the loss in revenue, the Company was obliged, however, to continue the payment to the Sultan of the sum of 11,000 pounds which represented the value of the customs at the time the concession was granted. In other words, the Company found itself burdened with the tax of administration not only on the mainland but also in part of Uganda [31] without adequate revenue and without jurisdiction over Europeans in the interior. In 1896 it was also obliged to contend with a native rebellion, provoked apparently by the zeal of Christian missionaries and by the efforts of the Company to suppress slavery—which antagonized the Moslem Arabs.[32] Under these circumstances the Company decided to withdraw, and after a long period of uncertainty [33] the British Government finally decided to take over its territories. Months of negotiation followed in regard to the terms of settlement between the Company and the Government. The Company declared that it had expended 450,000 pounds in taking over and holding the territory which it had acquired without any of the bloodshed which had marred the occupation of other parts of the continent. But the British Government refused pointblank to pay the Company more than 250,000 pounds.[34]

It appears that the British Government treated the East Africa Company less generously than it treated the Royal Niger or the British South Africa Companies.[35]

Following this agreement the British Government established a pro-

[30] McDermott, *cited*, p. 345.
[31] Cf. Vol. I, p. 279.
[32] *Recent Rebellion in British East Africa*, C. 8274 (1896).
[33] Cf. Vol. I, p. 281.
[34] *Correspondence respecting the Retirement of the Imperial British East Africa Company*, C. 7646 (1895).
[35] The shareholders declared: "That whereas the acquirement of the neighbouring German and Italian possessions in East and North-east Africa has in each case entailed an expenditure of over 1,000,000 pounds on their respective governments, and no little bloodshed, and whereas France is preparing to spend millions in Madagascar, our Company can point with pride and satisfaction to the fact that, its affairs having been directed by men of the highest administrative experience, the grave mistakes of our neighbours have been avoided, and the Company's vast territory, as large as any of the three-named, has been peaceably secured for the nation with the good-will of the natives, together with a development of its revenues and general interests entirely at the Company's expense." C. 7646 (1895), p. 24, para. 6.

tectorate over East Africa and Uganda and took over the administration not only of the coastal strip but also of the interior. The government of East Africa continued to pay the rent to the Sultan stipulated in the original concession amounting to 11,000 pounds a year. In addition, it pays annually to the Sultan the sum of 6000 pounds which is interest on the sum originally paid by the German Government in trust to the British Government for the German East Africa mainland. In ceding Jubaland to Italy in 1925, the British Government was again confronted with the fact that the coastal strip to Jubaland was nominally a part of Zanzibar. The British Government got over the difficulty by ceding this part of the territory in the name of the Sultan of Zanzibar, in return for which the Italian Government agreed to pay an annual indemnity, "which shall in no wise represent a tribute implying any survival of sovereignty", of 1000 pounds, representing the proportionate share of the annuity hitherto paid by the Kenya Government. The treaty also provided that the Italian Government might discharge this obligation by a payment of a lump sum of 25,000 pounds to Zanzibar. Following this agreement, the Kenya Government reduced its annual rent from 11,000 pounds to 10,000 pounds.

Down to the present day the British Government recognizes the ten-mile strip along the Kenya coast as belonging to the Sultan of Zanzibar.[36] The Sultan's flag is flown and he is represented by a Liwali who is paid nine hundred shillings per month by the British Government. There are two other Arab or Swahili Walis and seven Mudirs who help in the administration of the territory. The legislative power of the Sultan of Zanzibar does not, however, apply as it does in Zanzibar proper. Mohammedan law is followed including the law of freehold, under which Arabs may sell or mortgage their property without administrative control. Arab plantations, originally maintained by slave labor, have been in a languishing state, and a number of them have fallen into the hands of Europeans and Indians. Many difficulties over titles have arisen, which the government has attempted to solve through establishing a Land Court and introducing the Torrens system.

[36] The Kenya Colony Annexation Order, 1920, did not include this strip which is called the protectorate of Kenya. Administrative officials have never agreed as to the extent of the ten-mile strip. The Treaty of 1886 says that the ten-mile strip is measured from the coast direct into the interior from high-water mark. But if the high-water mark of the bay back of Mombasa is followed it would put the ten-mile strip about a hundred miles inland! In 1911 it was decided to follow the headland-to-headland principle laid down in the North Atlantic Fisheries Arbitration; but this was soon given up, and in practice the line was drawn so as roughly to follow a range of hills running about ten miles from the coast, which separates the coastal plain from the interior both as regards climate and soil.

The conditions on the coast have been recently described as follows: "The characteristics of the purely coastal people are well-known. They cannot be described as anything but a decaying race, and the great majority of them maintain a precarious existence and live practically from hand to mouth. Sustained effort is beyond them and such property as they have left exists only to be realized at the first opportunity.

"The conditions which prevail in the coastal area would seem to be the inevitable fate of a community which in the past has made domestic slavery a part of its social system. The abolition of slavery leaves both master and man equally helpless. . . ." [37]

The Kenya settlers repeatedly request the termination of the protectorate, and its incorporation into Kenya Colony.

6. *Zanzibar*

After establishing a protectorate over the Sultanate of Zanzibar, the British Foreign Office proceeded to organize an administration. In 1891, Sir Gerald Portal became His Majesty's Agent and Consul-General. In the same year, General Mathews became First Minister to the Sultan. The first efforts of these British officials were to organize various government departments under the control of British officials who were irremovable except by consent of the Consul-General, and to keep all revenue and expenditure in proper accounts. Before 1890, most of the revenues had been appropriated by the Sultan; and the alienation of the mainland territories to German and British Companies reduced this revenue to a third of its former sum. Economies became necessary, if the kingdom were to be saved from insolvency

Despite this critical position, Sir Gerald Portal boldly abolished the five per cent import duty which had been authorized in the Act of Brussels, and established Zanzibar as a free port in order to increase trade and make it the shipping center of the East Coast. This action was justified by a noticeable increase in trade.[38]

Upon the death of the Sultan Seyyid Ali in 1896, three contenders for

[37] *Native Affairs Department, Annual Report,* 1925, Kenya, p. 9.
The same report says (p. 34) "The situation which is developing among the younger Arabs and Swahili gives rise to some anxiety. The curse of drinking is rapidly spreading among them and has now overtaken women of all classes. . . . We find ourselves today with a generation of drunken, dangerous wasters, loafing through the days, contaminating every tribe in the country. . . ." Despite the fact that a policy of the prohibition of alcohol is followed, except for Europeans, it does not appear that the law is enforced.

[38] The duty was, however, reestablished in 1899. Cf. Lyne, *Zanzibar in Contemporary Times,* Ch. XVI.

the throne arose. One of them, Seyyid Khaled, took the law into his own hands and attacked the palace and demanded recognition as Sultan. The British sent an ultimatum to Seyyid to leave the palace. This he declined to accept. As a result, three British ships bombarded the palace, killing five hundred Arabs. This was the only time in the history of its relations with Zanzibar that the British Government felt obliged to fire a shot. Seyyid Khaled escaped to Dar-es-Salaam where the Germans gave him protection. When the War broke out in 1914, the Germans promised him the Sultanate of Zanzibar if he would use his influence to induce the Arabs and the natives to support the German cause. In 1916, the British finally captured and deported him to the Seychelles. Here he remained until 1922 when he was allowed to return and reside at Mombasa. He is still at Mombasa under the supervision of the Liwali of the town.[39]

For a number of years the administration of the protectorate was handicapped by the extra-territoriality treaties, the termination of which the British Government attempted to bring about. At present the American and French treaties are the only ones which have not been terminated. The consuls of foreign governments no longer raise objections as they did in the past to "nearly every legislative act of the Government." [40] The British Government has apparently interpreted the Convention of Saint Germain of September 10, 1919, removing all limitations in customs duties, as over-riding the articles limiting customs duties in the treaties previously made between the Sultan of Zanzibar and foreign powers.

In 1906, stricter control over the island was established by the addition of a legal and financial member to the Sultan's Council. This system of dual control—through the British Consul-General representing British interests and a British First Minister representing supposedly the Sultan's interests, under the supervision of the British Foreign Office—remained in force until 1913. It was found, however, that this division of control was cumbersome. Consequently, in that year the administration was transferred from the Foreign to the Colonial Office, and the powers of the Consul-General and the First Minister were vested in a single British Resident Commissioner, who was made responsible to a High Commissioner of Zanzibar, a position held by the Governor of what is now Kenya.[41] At the same time a Protectorate Council was established.

This system of administration did not, however, prove satisfactory. Every important decision had to be referred to the High Commissioner at

[39] Sinclair, *Report on the Zanzibar Protectorate,* 1911-1923, p. 1.
[40] *Ibid.,* p. 2.
[41] Apparently this plan was based on that of High Commissioner for South Africa. Cf. Vol. I, p. 206.

Nairobi, which meant delay. The office of High Commissioner cost two thousand pounds a year, and its incumbent, the Governor of Kenya, was too absorbed with local affairs carefully to follow the events in Zanzibar. The Protectorate Council, which was presided over by the Sultan, had only advisory powers; its meetings were held in deep secrecy and no reports of its deliberations were published. Even the annual estimates of revenue and expenditure were kept secret from the public. The East Africa Commission, which visited the island in 1924, recommended that the position of High Commissioner and the Protectorate Council be abolished and that the duties of the former official be vested in the British Resident, while a Legislative Council, containing nominated members, should be established, which would control the power of the Sultan to enact decrees.[42] On September 5, 1925, the post of High Commissioner was abolished[43] and in 1926 the Sultan enacted a Zanzibar Councils Decree which established a Legislative Council.[44]

Nominally, at least, Zanzibar stands upon a higher plane than any other protectorate in Africa. The British representative is called a Resident in contrast to the High Commissioner or Governor found in other protectorates. All laws take the form of decrees enacted in the Sultan's name. They are preceded with the caption "In the name of the most Merciful God." The Legislative Council was established not by the British Government but by the Sultan. The Sultan's flag flies over the island to-day. All of the Sultan's decrees are, however, countersigned by the British Resident;[45] while the British district commissioners supervise the administration of the districts into which Zanzibar and Pemba, its dependency, are divided. Although the British have supported the person and the authority of the Sultan, they have believed it wise to cut down the personal emoluments which he formally enjoyed at the expense of his subjects. Before 1911, the civil list of the Sultan Seyyid Sir Khalifa bin Harub amounted to one hundred and seventy-five thousand pounds; but believing that this sum was excessive, the British authorities have brought about its reduction to the eight thousand pounds which the Sultan now receives. Despite this reduction, the Sultan is paid four times the salary of the British Resident, and two thousand pounds more than the Emir of Sokoto or of Kano.[46]

[42] *Report of the East Africa Commission,* Cmd. 2387 (1925), p. 132.

[43] Cf. British Residents' (Assignments of Powers and Duties) Decree, which transfers the duties of the High Commissioner to the Resident. *Zanzibar Decrees,* 1925, p. 133.

[44] Cf. also the Zanzibar Order in Council, 1926, *Statutory Rules and Orders,* 1926, p. 587.

[45] Under Article 59 of the Zanzibar Order in Council, 1914, printed in *Zanzibar Law Reports,* p. 748.

[46] Cf. Vol. I, p. 702.

During the last few years, the British authority has attempted to revive native political institutions through organizing district courts, with Arab Akidas as presidents, sitting with native headmen or Masheha and prominent local Arabs and Indians. These courts have a limited criminal jurisdiction over native and foreign subjects.

At the present time, Zanzibar has a population of about 186,000 Africans, 16,500 Arabs, and 14,000 Indians, not to mention 270 Europeans, all of whom live peacefully side by side. Inhabiting one of the beautiful spots of the earth, these people live in an atmosphere of narrow streets, shining mosques, and turbaned Arabs and Indians—a scene more Oriental than African. Zanzibar is a veritable Paris to the native from the mainland, who periodically crosses in the open dhow to work in the clove harvest. Cloves and copra are the two leading industries of Zanzibar; and they have made the territory the richest in Africa.[47]

Zanzibar produces 90 per cent of the cloves of the world—a monopoly which is now, however, coming to be threatened by French Madagascar. About seventy-five hundred tons of cloves are produced annually, having a value of about four hundred and eighty thousand pounds. About the same quantity of copra is also produced, but its value is much less, being only one hundred and fifty thousand pounds. Per capita exports amount to about three pounds. About forty thousand acres, having four million trees, are under clove plantations.

Despite this great production, the clove industry of Zanzibar has not been in a healthy condition. The Arab plantations on which cloves have been produced were originally manned entirely by native slave labor. But in 1897, domestic slavery was abolished at a loss in direct revenue to the Sultan's government of 26,500 pounds a year.[48] Ever since, the Arab plantation owner has been unable to adapt himself to the régime of free labor, and there has been a chronic labor shortage. The introduction of Indian labor to man the plantations has been at various times proposed; but the natives from the mainland of Tanganyika have become the chief harvesters of the crop. So serious did the situation become, that it appears that for a number of years the British authorities used a measure of compulsion to oblige local natives to work on the clove plantations.[49] In 1917, the Sultan enacted the Native Labor Control Decree and the Regulation of Adult Male Persons Decree.[50] Under the latter decree all adult males were obliged to register with the government. The first decree gave the Labor Control Board power to call upon any registered

[47] Cf. the table, Vol. II, p. 889.
[48] *Slavery in Zanzibar*, C. 7707 (1895).
[49] Sinclair, *cited*, p. 15.
[50] Nos. 24 and 25, 1917, *Zanzibar Decrees*, 1917, pp. 10, 12.

native not in regular employment and not physically unfit "to do any work within the Protectorate as the Board thought necessary" at such place and time as the Board determined. A native refusing to work was liable to three months' imprisonment and a fine of twenty rupees. This decree thus legalized compulsory labor, whether for private or public purposes. Following the declaration of the British Government in regard to forced labor in 1921, which applied to Zanzibar as well as to Uganda and to Kenya, the Zanzibar Government repealed the 1917 decree in favor of the Employment of Native Labor Decree,[51] which authorizes compulsory labor only for stated public purposes, subject to restrictions similar to those contained in the Kenya and Uganda ordinances.[52]

Despite the past labor shortage, the production of cloves in Zanzibar has steadily increased; and with the subdivision of the Arab plantations into small native holdings, the labor problem is gradually solving itself, since each native owner provides his own labor.

Clove producers have had difficulties of another nature. From early times, Arab plantation owners relied upon Indians as their bankers who advanced them money upon the security of their plantations. As a result of these transactions, many plantations became mortgaged to Indians. At present, the clove producer is also at the mercy of the Indian middleman. The Commission of Agriculture reported in 1923, "The lot of the clove planter is indeed a hard one. He is mulcted in a quarter of his crop. Apart from a limited scheme of advances for harvesting he is left to obtain from money-lenders the credit facilities which are essential to all agriculturists. The necessities of life are in many cases procurable only on the conditions of eventual payment in kind. The planter is no accountant. The money-lender strikes the balance. Bank, shop and market thus constitute a ring fence from which there is no escape."[53] In an effort to free the planter from the middleman, the government has made loans for harvesting amounting to more than twenty-five thousand pounds. The Commission on Agriculture in 1923 recommended that a study be made of the desirability of introducing the principle of cooperative societies in order to relieve the situation.

For many years, the Zanzibar Government has relied upon an export duty on cloves as a principal form of revenue. In 1925, this duty yielded 34,019,688 rupees in comparison with 16,095,011 rupees from customs duty. The three largest importers of cloves are India, the United States, and the United Kingdom. This duty is not paid in cash but by taking duty-in-kind as soon as the produce is picked on the plantation. Many

[51] No. 4 of 1923, *Ibid.*, 1923, p. 9. [52] Cf. Vol. I, p. 371.
[53] *Report of the Commission of Agriculture,* Zanzibar, 1923, p. 50.

officials and commissions have argued as to the incidence of this tax, paid in kind on a product which has nearly a world monopoly. The Commission on Agriculture believed that in view of the manner in which the duty was collected it had the character of a direct tax on production which tended to fall "with undue hardship upon the grower." Despite the monopoly, the Zanzibar grower was unable to shift these taxes to the consumer "owing to the entire absence of any form of co-operation and also on account of the general improvident habits of his class." [54] It would appear that the Zanzibar clove grower is in need of capital which will enable him not only to get rid of his present dependence upon Indian money-lenders, but also make it possible for him to pay his clove duty in cash, which seems to be a desirable step if he is to receive the fullest profit from his crop.

Despite these difficulties, Zanzibar is one of the few examples which can be found in this world of a successful inter-racial community.

7. *Uganda*

To the west of Lake Victoria Nyanza lies a territory called Uganda inhabited by a large number of native states, the leading one of which is the Kingdom of Buganda.[55] Explorers came to this country in 1862, to be followed by Stanley in 1874. Much impressed by the local king, Mutesa, who had become a Mohammedan at the persuasion of the Arabs, Stanley wrote a letter in 1875 asking the Church Missionary Society to send a mission to this kingdom. At this time, the only access to the country was by walking over land five hundred miles from the coast. After some hesitation the Society accepted the challenge; and under the leadership of a remarkable Scotchman, Alexander Mackay, a mission set out for Uganda in 1876.[56]

In 1879, two French Catholic priests, following the Protestants, arrived in the country. They belonged to the Order of the White Fathers, originally organized under the inspiration of Cardinal Lavigerie who apparently envisaged the creation of a "Christian kingdom in the center of Equatorial Africa," which would restore the glories of the Temporal Kingdom of the Papacy in the Middle Ages.[57] According to British

[54] *Ibid.*, p. 4. A defense of the Indian position in Zanzibar is made by Y. E. Jivanjee in a *Memorandum on the Report of the Commission on Agriculture,* 1923, Poona, 1924.

[55] Cf. Vol. I, p. 571.

[56] Cf. Eugene Stock, *The History of the Church Missionary Society,* London, 1899, Vol. III, p. 97.

[57] Mgr. Baunard states his ambition as follows: "Le monde africain de l'intérieur est précisement dans l'état politique et social où notre Europe était au moyen age. Pourquoi l'Église n'y réaliserait-elle pas les mêmes transformations par les mêmes bienfaits?" *Le Cardinal Lavigerie,* Paris, 1912, Vol. II, p. 74.

writers, the priests set about to undermine the influence of British missionaries with King Mutesa whom they supplied with guns and ammunition.

On the other hand, the French accused the British missionaries of duplicity. One Father, according to the clerical biographer of Cardinal Lavigerie, asked Rev. Mackay to act as his interpreter in a conversation with King Mutesa. "The Protestant Minister, profiting from his ignorance of the language, represented to the prince that the French Catholics were men who did not know God, worshipped statues, execrated Kings and had even killed one, a few years ago. Happily Father Lourdel, perceiving this betrayal, interrupted him and explained as best he could." [58]

King Mutesa, Uganda's great king,[59] died in 1884. While he had never accepted Christianity, he was a man of character with whom the missionaries dealt upon a basis of goodwill. His son, Mwanga, was of a different stripe. Shortly after his succession to the throne, he ordered three native Christians to be put to death by fire. According to Mackay's diary, they were "tortured by having their arms cut off, and were then bound alive to a scaffold, under which a fire was made, and they were slowly burnt to death. Mujasi and his men mocked them and bade them pray now if Isa Masiya (Jesus Christ) would rescue them from their hands." [60]

Disturbed at the entrance of a missionary expedition into the country via the "back door" at Busoga, King Mwanga now instigated the murder of Bishop Hannington, its leader. When a native Christian who later became a high official in the native government refused to commit sodomy with the king, Mwanga launched a wholesale persecution of Christians in which thirty-two natives were burned on one pyre. Under the influence of the Mohammedan Arabs, Mwanga now resolved to expel all Protestant and Catholic missionaries from the country, which led to a revolt and to the deposition of the king, who fled across the lake. The Moslems soon got control of the Buganda Government. Meanwhile Mwanga became a Catholic, and Protestant and Catholic natives, aided by the missionaries, united to restore him to his throne. The missionaries thereupon reentered Uganda after an absence of one year. Thus the country, still independent of all European control, was torn between the rivalries of three religious parties, the Mohammedans, the Protestants, and the Catholics. Since the Protestant missionaries were British and since the Catholic priests were mostly French, the struggle soon came to be a struggle between British and French interests.

[58] Baunard, *cited,* p. 83. [59] Cf. Vol. I, p. 572.
[60] Stock, *cited,* p. 412. Cf. also Mgr. Baunard, *cited,* p. 346.

In 1890, Dr. Karl Peters, who had entered Uganda coming inland via the Tana River in search of Emin Pasha, who had been imprisoned in the Sudan since the Mahdi uprising against General Gorden, signed a treaty with Mwanga by which he hoped to establish a German protectorate; but without avail, since Germany recognized the British position in Uganda in the Heligoland Treaty of 1890. A few weeks later, a representative of the Imperial British East Africa Company, Mr. Jackson, hastened to Mengo to offset Peters' activities. But apparently because of the influence of the French missionaries, Mwanga declined to sign a treaty recognizing a British protectorate. In another effort, the British East Africa Company despatched Captain Lugard to Uganda, who obtained a concession at Kampala. In 1890, he induced Mwanga, apparently against his wishes,[61] to sign a treaty recognizing the "suzerainty" of the Company and placing his kingdom and vassal states "under the sphere of influence and protection" of the British Company. He engaged not to use the flag of any other nation, nor to conclude treaties except with the consent of the Resident of the Company who would be stationed in his kingdom, nor to allow foreigners to acquire concessions or lands without his consent. The Resident was given jurisdiction over Europeans and he could preside over a Committee of Finance and Receipts composed, in addition to himself, of three members elected by the native Council of State. The King was obliged to consult the Resident before declaring war and in regard to all serious questions. The slave trade was prohibited; commerce was declared free; missionary freedom was guaranteed. The native government would reimburse the Company for its expenditures made solely in the interests of the country. The treaty was to last only two years, when it could be revised or renewed.[62]

Captain Lugard also negotiated a large number of treaties with native states and tribes in the Bunyoro, Buddu, Kavalli, and Ankoli districts. In order to police the country and maintain order, he brought to Uganda eight thousand Sudanese troops which Emin Pasha had left in the Sudan.

The presence of the British continued, however, to concern the White Fathers, who originally, it appears, were more desirous that the coming administration of the country should be Catholic than that it should be French.

In 1891, Cardinal Lavigerie wrote to Cardinal Manning that the

[61] Cf. Lugard, *The Rise of Our East African Empire,* Edinburgh, 1893, Vol. II, p. 35.

[62] The treaty contained a curious addition to the effect that "these words should be wiped out" in case "another White Man, greater than this one" should come to Uganda. Cf. *Papers respecting Proposed Railway from Mombasa to Lake Victoria Nyanza,"* C. 6560 (1892), p. 16. This document contains the texts of a large number of other treaties made by Company representatives with other tribes.

Catholics would not object to a British protectorate in Uganda provided that an English Catholic be placed at the head of the protectorate. Mgr. Livinhac made the same demand and threatened: "If this means of pacification were neglected, war would break out and it would perhaps be the German colony from the west of Nyanza which would profit from the victory." [63]

When the East Africa Company declined to make any such promises, the animosity of the Catholics was revived. In 1892, new priests arriving in the country spread the story that the Company was going to withdraw. While accounts differ vitally, it seems that the French priests supplied Catholic natives with firearms with which they attacked the Protestants. A veritable civil war took place in which Captain Lugard, who came to the aid of the Protestants, triumphed.

Mgr. Hirth now sent a letter to France asserting that the Catholics had been attacked cruelly by the Protestants. This letter caused a furore which led the French Foreign Minister to state that the British Government should absolve itself of deeds which were a "shame to civilization." But meanwhile British reports of the controversy arrived in England. Captain Lugard stated that "it was the Catholic party who entirely and of purpose provoked the war. . . . The trouble in every instance arose from the aggressions on the part of the Catholics. . . ." [64]

Following this war, Captain Lugard made a new treaty in 1892 extending the treaty of 1890. This treaty was not, however, ratified.[65]

At the same time he brought about religious peace by establishing religious spheres of influence, assigning nine counties and chiefs to the Catholics, nine to the Protestants, and three to the Mohammedans. At the present time, the relations between Catholic and Protestant missionaries in Uganda are remarkably cordial.[66]

Meanwhile, the British East Africa Company found that the task of administering the East Africa Protectorate was altogether too heavy for its resources, and it informed the government, which declined to subsidize it, of its intention to withdraw. Sir William MacKinnon proposed, however, to the Church Missionary Society—the missionary organization in Uganda—that he would advance ten thousand pounds personally, if the Church Missionary Society could raise fifteen thousand pounds to keep the

[63] Mgr. Baunard, *cited,* Vol. II, p. 612.
[64] Quoted in Stock, *cited,* p. 443. Cf. for the same opinion Lugard, *cited,* p. 333. Mgr. Baunard in his life of Cardinal Lavigerie repeats the charges of Mgr. Hirth but does not mention Lugard's reply.
[65] Text, Lugard, *cited,* Vol. II, p. 435.
[66] Cf. Vol. I, p. 609.

Company there. The Church Missionary Society replied that it could not use its funds in that way, but that it might be possible for its friends to raise sums independently.[67]

While the question of withdrawal was pending, the *Times* published a leader declaring: "The probable and almost inevitable results of such a step as this [i.e. the withdrawal] would be an immediate massacre of the Native converts and European missionaries in that country; a state of anarchy, followed by the re-establishment of the Mohammedans and possibly of the Mahdist power; the resurrection of the slave trade in its worst form; the ruin of the prospects of the Imperial British East Africa Company in East Africa; and the entire collapse of the policy which, whether as regards the slave trade or the development of the African continent, the Government has so courageously and hitherto so successfully followed. . . ."

At the Gleaners' Union Anniversary, a meeting was held addressed by Bishop Tucker of Uganda, at the close of which an appeal was made for funds. Within a half hour eight thousand pounds had been raised—which was increased within the next ten days to a total of sixteen thousand pounds.

As a result of this encouragement, which was more moral than material, the Company decided to retain its hold until the British Government could decide what action it wished to take. On December 20, 1890, the Foreign Office had written to the Treasury that Great Britain as a party to the Brussels Act had engaged to cooperate actively in the suppression on land as well as on sea of the slave trade. While the task was simple in West Africa and south of the Zambesi, it was more difficult in East Africa. "The coast is the outlet of the sea-borne Slave Traffic; the interior is the source from which it springs." The only certain remedy was the establishment of interior stations and the construction of railways which would provide cheap transport. The necessity was increased by the energies of the German Government in East Africa which were having the effect of ejecting slave-traders into the British sphere. "It is believed that there is only one mode of action which would have a practical effect—the construction of a railway from Mombasa to Lake Victoria Nyanza. . . . As the railway will pass through a sterile region . . . the hope of its becoming eventually remunerative can only rest on the prospect of the gradual civilization of the dense population surrounding the lake district. . . ." Such an undertaking deserved an annual subsidy which "would represent the contribution of this country to the execution of its obligations under the Brussels Act." Moreover, the construction of the railway would

[67] Stock, *cited*, p. 439.

eventually do away with the necessity of maintaining a squadron off the coast to apprehend slavers.[68]

In March, 1892, the House of Commons, at the request of the government, voted in favor of spending twenty thousand pounds for a survey of the proposed Uganda Railway by two hundred and eleven to one hundred and thirteen.

Following this vote, the British Government despatched Sir Gerald Portal to Uganda to determine what its future should be. In 1893, he negotiated a provisional treaty with King Mwanga in which the King agreed to a British protectorate should the British Government decide to accept it.[69]

In his report, Sir Gerald expressed the belief that the chiefs in signing treaties with the British East Africa Company believed that they were placing themselves under the protection of the British Government. A number of chiefs stated that they and their followers would leave Uganda, should the British withdraw. The Commissioner discussed the possibility of the Moslems of East Africa uniting with the Moslems at Wadelai and the White Nile, in case British influence should be removed. He believed that in this event, civil war would result and that some other European government would take over the country. In view of these circumstances, he recommended that the British Government consider the possibility of establishing a protectorate over Uganda.

Accepting this advice, the British Government negotiated a new treaty with Mwanga definitely establishing a protectorate.[70] In 1895, the government finally decided to proceed with the construction of the Uganda Railway, the survey of which it had authorized three years before. The railway was completed in 1901. British troops now were engaged in suppressing revolts of the Sudanese troops which took place in 1897, and a rebellion in which King Kabarega and King Mwanga both took part. Mwanga was finally obliged to flee across the German frontier and was eventually banished to the Seychelles islands. His infant son, Daudi Chaw, was now put upon the throne, while the actual administration was entrusted to a regency of three members.[71]

In order to bring about order following these internal difficulties, the British Government sent Mr. (now Sir) Harry Johnston as a Special Commissioner to Uganda in 1899. In his report he declared: "The

[68] Cd. 6560, *cited,* p. 1. The railway now makes a large profit, cf. Vol. I, p. 522.
[69] Cf. Cd. 7303 (1894); *British and Foreign State Papers,* Vol. 85, p. 845; Sir Gerald Portal, *The British Mission in Uganda,* London, 1893; and Hertslet, *cited,* p. 995.
[70] Treaty of August 27, 1894, *British and Foreign State Papers,* Vol. 86, p. 289.
[71] Cf. Chap. 32.

natives, especially those speaking Bantu languages . . . should be assisted and encouraged to govern themselves, as far as possible without too much interference on the part of European officials. The presence of this European element in the Administration should be restricted as far as possible to the administration of justice to foreigners, the collection of revenue, the regulation of finance, the management of railways and steamers, the supervision of public works, and the direction of scientific enterprise. . . ."[72] Animated by these principles, Johnston negotiated the Uganda Agreement of 1900, the terms of which are discussed in a subsequent section.

Such is the history of the European occupation of the former empire of the Sultan of Zanzibar—Germany and Great Britain now ruled from the Rovuma to the Juba River and over the interior as far as the borders of the Congo Free State. Some writers[73] have indignantly protested that Germany and Great Britain "robbed" the Sultan of his kingdom, and that they violated the independence of Uganda. As far as the Sultan of Zanzibar is concerned, it is difficult to become aroused over the action of these European governments in view of the fact that the Sultan was as much an alien to the country as the Europeans, and that his chief interest had been in taking out slaves and ivory from the interior, which he did not, except for the slave routes, effectively administer. For at least fifty years the British Government had attempted to secure the abolition of the slave trade. But despite the profuse promises of the Sultan, he seemed unwilling or at least unable to carry his promises into effect. With the establishment of European control, the slave trade came to an end.

In his report on Uganda, Sir Harry Johnston asks the question: "Were the natives happier before the British Protectorate?" He goes on to say, "I know that it is the opinion of a certain class of thinkers and writers in the United Kingdom that we have brought unhappiness on the black and brown races by establishing over them our rule and our civilisation." But he does not believe that this was true, in Uganda at least, where "prior to the assumption of British control the natives in many districts led a life of misery and woe." Upon the death of a chief, it was the custom in some tribes for warriors to slay all persons within a radius of two miles. In many parts of the country, cannibalism and witchcraft made victims of large numbers of people. The King of Uganda, Mutesa, "beheaded his wives for forgetting to shut the door. Pages were horribly mutilated

[72] *Report by His Majesty's Special Commissioner on the Protectorate of Uganda,* Cd. 671 (1001), p. 13. Cf. also Sir Harry Johnston, *The Uganda Protectorate,* London, 1902, Ch. 8.

[73] Notably Leonard Woolf, in *Empire and Commerce in Africa,* p. 247.

for treading on the tail of a pet dog." The Uasin Gishu Plateau had been completely depopulated by inter-tribal war. He concludes by saying: "I believe I am stating the absolute truth when I sum up my impressions by declaring that the natives are far happier and much better off materially and morally by the establishment of British control over their destinies. . . ." [74]

The conditions which he describes prevailed not only in Uganda but to a greater or less extent throughout the whole of central and west Africa, before the European occupation.[75] These conditions have been largely brought to an end by European control. Other conditions have, however, been substituted: conditions imposed by the World War in which thousands upon thousands of natives lost their lives—conditions imposed in times of peace by European industry. Whether or not the native is "better" or "worse" off now than in the old days is a question which it is probably impossible to answer. It depends upon the point of view. In any event, it is a question which can be answered only after an examination of conditions which now prevail.

[74] Cd. 671, *cited*, p. 17. It is in this report that Sir Harry Johnston calls the Baganda "The Japanese of the Dark Continent, the most naturally civilised, charming, kindly, tactful, and courteous of black peoples." *Ibid.*, p. 16.

[75] Many accounts of these conditions have, however, been exaggerated. Cf. Vol. I, p. 676.

CHAPTER 18

POPULATION—THE INDIAN QUESTION

HAVING traced the occupation of East Africa by the European powers and the fate of the Sultanate of Zanzibar, we shall now discuss in the three following sections, the present situation in Kenya, Tanganyika, and Uganda.[1]

1. *Constitution*

Before 1920, the territory now known as Kenya was called the East Africa Protectorate. Established in 1896, its frontiers originally stopped at Naivasha; but under the authority of the Order in Council of 1902, the British Government transferred to East Africa the two provinces of Naivasha and Kisumu from Uganda, the first of which included large areas of plateau suitable for white settlement, and the second of which brought the boundary of the protectorate to the shores of Lake Victoria Nyanza.[2] Had these areas remained with Uganda, the history of that native state and of the East Africa Protectorate might both have been different.

Governed at first under a Commissioner responsible to the British Foreign Office,[3] the protectorate was transferred to the Colonial Office in 1905.[4] In the following year, an Order in Council established an Executive and Legislative Council, presided over by a Governor. Between 1906 and 1919 the Constitution provided that the Legislative Council should contain an official majority together with three nominated unofficial members. Following a long period of agitation on the part of European settlers, the principle of elective representation was finally recognized in 1919.[5] But the application of the principle was delayed several years on account of the demands of the Indians and of the formalities connected with the annexation of the territory. Some doubt had been expressed as

[1] Uganda is placed last in order to group it with the native states rather than with the white settlement colonies. Tanganyika, as we shall see, occupies a middle position.

[2] *East Africa Protectorate, Ordinances and Regulations,* 1876-1902, p. 150.

[3] Cf. the East Africa Protectorate Order in Council, 1902, *ibid.,* p. 5.

[4] East Africa Protectorate, *Ordinances,* 1905, p. 36.

[5] Legislative Council Ordinance, 1919, *Ordinances,* 1919, p. 26. A voter must be a British subject of European descent. This Ordinance was validated by the Letters Patent of September 11, 1920, *ibid.,* 1920, p. 114, Part II.

to the legality of a legislative council having elected members and of the land alienations of the British Administration, under a protectorate régime. Moreover, a protectorate could not register its bonds under the Colonial Stocks Act, thus making them available for investment by Trustees—a fact which made it difficult to borrow money. These different considerations led the local population to request the annexation of the territory. In 1920, the Kenya (Annexation) Order in Council annexed the protectorate except for the ten-mile coastal strip,[6] on the ground that "British subjects have settled in large numbers in the said territories," and changed the name of the territory from the East Africa Protectorate to Kenya Colony.[7] The final step in the constitutional development of the territory came in the enactment of Letters Patent and Royal Instructions in 1922, as amended in 1922 and 1923, which provide for a Legislative Council with an official majority of twenty, together with eleven elected Europeans, five elected Indians, one elected Arab, one nominated Arab, and one nominated Christian missionary appointed temporarily to represent the interests of the African community.[8] Both men and women vote for the European members who are elected in eleven different constituencies.

Following a similar provision in the Southern Rhodesia constitution, the Kenya constitution says that the Governor shall not assent, among other types of legislation, to "any bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable."

2. *Population*

In the population of this territory there have been three main elements whose interests have frequently conflicted. The first has been the African people, the number of whom was estimated in 1897 to be 2,500,082 by Sir Arthur Hardinge—an estimate which applied, however, to only half of the British East Africa protectorate. At that time the Commissioner wrote, "It seems probable that the population of this part, at any rate of the Protectorate, being composed of vigorous races, will especially, if they continue to be protected by Government against the deteriorating and destructive effects of alcohol, show in future a tendency to increase, now that the inter-tribal wars, the slave hunts, and the Masai and Somali raids

[6] Cf. Vol. I, p. 269.

[7] Kenya (Annexation) Order in Council, 1920. *East Africa Protectorate Gazette,* 1920, p. 1079. As a result of this annexation, the territory was thereafter administered by the Crown by virtue of the British Settlement Act, 1887, instead of the Foreign Jurisdiction Act of 1890.

[8] Royal Instructions, *ibid.,* Kenya, 1923, p. 983; also Legislative Council (amendment) Ordinance, 1924.

which within a very recent period desolated the country almost up to the sea-board, are suppressed by the establishment of a civilized Administration. These in former days, combined with a foe even more difficult to conquer, but whom improved communications and the advance of the railway will make it easier for us to contend with, namely, famines, long kept the population down; and I have heard it said, though I know not with what truth, that the great famine of 13 years ago, reduced the inhabitants of the present province of Sevyyidieh to about half their previous numbers. Whether this be so or not, it is certain that the memory of that famine is more deeply graven than any other occurrence in their recent history in the minds of the native population. . . ." [9]

Some estimates placed the population of the East Africa Protectorate in 1910 at 4,000,000. While these statistics are notoriously untrustworthy, there is no evidence that Sir A. Hardinge's optimistic prophecy about future increases has proved true; on the contrary some students believe that since the European occupation, the native population has declined by two-thirds.[10] This estimate probably overshoots the mark. Nevertheless, probably fifty thousand natives died during the World War, while one hundred and fifty thousand died from famine and influenza in 1918-19. The Chief Native Commissioner of Kenya is inclined to believe that the population "has lately shown a tendency to decline."[11]

A degree of support to this opinion is given in the following significant statement of the Kenya Medical Department:

"Between 1904 and 1924 internal peace was given to the tribes of Kenya; but at the same time economic changes were taking place and development along new lines was in progress. Both peace and development were, in relation to the conditions which had previously existed, more of the nature of shocks than of stimulants; the advent of external war in 1914 postponed for at least a decade the devising or application of methods whereby the results of these shocks could be controlled. Increase of population between the years 1904 and 1924 could under the circumstances hardly have been expected." [12]

[9] *Report by Sir A. Hardinge on the Condition and Progress of the East Africa Protectorate from its Establishment to the 20th July, 1897,* C. 8683 (1897), p. 25.

[10] Norman Leys, *Kenya,* London, 1925, p. 282.

[11] *Report of the East Africa Commission,* Cmd. 2387 (1925), p. 185.

[12] *Annual Medical Report,* 1925, p. 15. The same Report also says, "On the other hand it must not be forgotten that the period 1914 to 1924 was one during which a number of severe strains were being experienced by the native population. A sleeping sickness epidemic had during the previous decade swept through parts of the Nyanza Province, and its effects were probably still in evidence; in 1913 a severe epidemic of cerebro-spinal meningitis had taken a large toll of lives in the Kikuyu Province; between 1914 and 1918 many thousands of natives died on active service, while many others were more or less incapacitated; in 1918 influenza was responsible for a great increase in the death rate; while in 1919-1920

The Europeans constitute the second element in the population. They increased from 3,175 in 1911 to 9,651 in 1921—a gain of 204 per cent.[13] By 1926, the European population had grown to 12,529—an increase of 30 per cent which, in comparison with 1921, was regarded as "disappointingly small."[14] All but six hundred and twenty-six of the European population are of British extraction.[15]

While the European population of Kenya is larger than that of any British West Africa or East Africa territory, excepting Southern Rhodesia, it is smaller than the European population of former German Southwest Africa, and of the Belgian Congo, and about equals that of French West Africa and Portuguese Angola.

Out of the five thousand eight hundred European men in the colony, about nine hundred are in the government service, and about 1,805 are farmers; the remainder are in business and in other occupations.

Taking the territory as a whole, Kenya has a population density of about eleven people per square mile. But this figure does not mean a great deal, as about half of the territory, particularly in the northeast, is worthless from the agricultural standpoint. A majority of the native population lives in the two congested provinces of Nyanza and Kikuyu.[16]

3. *The Indian Population*

The Indians, about thirty thousand in number, constitute the third element of the population. For centuries India and the East Coast of Africa have been connected commercially; in fact, the British first became interested in this part of Africa because of their interests in India. Sikh soldiers aided in the British conquest of East Africa, while at least thirteen thousand coolies furnished the labor for the construction of the

there was a serious famine in many parts of the country. Plague also was spreading during this period, and the long epidemic of yaws was probably at its maximum.

"Other factors which were probably not without effect were tolls exacted by the necessity for Railway Construction, at a time when neither the experience nor the machinery essential for the proper care of large bodies of inexperienced labourers was available, and by the employment of bachelor labour in the development of farms and estates. Nor can the heavy toll which is always exacted as the result of the first urbanization of rural folk be left out of account."

[13] *Report on the Census of Non-natives,* April 24, 1921, p. 2.

[14] Editorial, *East African Standard,* August 28, 1926, p. 13.

[15] The European birth rate was 26.42 per thousand in 1921, and the death rate was 9.32. While the birth rate about corresponds to that in England, the death rate is a little lower. Comparisons are, however, misleading because of the fact that the Kenya population is composed of a larger proportion of adults and smaller proportion of women than that of England. *East African Red Book,* 1925-1926, p. 91.

[16] Cf. Vol. I, p. 345.

Uganda Railway.[17] The imprint of India has been felt also in the employment of the Indian rupee which was the currency for East Africa until after the World War, when because of the constant fluctuations in the value of Indian silver, the shilling was substituted, and remains the currency to-day. The imprint of India is also seen in the Indian Penal Code, besides other codes which were early adopted by and which remain the law of East Africa.

It appears, moreover, that more Indians enter the colony than Europeans.[18] Nevertheless, the Indian population grew less than the European between 1911 and 1921—the increases being one hundred and eighteen per cent and two hundred and four per cent respectively.[19] It increased eighteen per cent between 1921 and 1926, in comparison with a European increase of thirty per cent. About six thousand of the Indians in the territory to-day were born in Kenya. At the present time, these Indians fall into three classes: (1) clerks who work for the government, the railway, and commercial firms, (2) artisans, and (3) traders. Although a few Africans have opened shops, virtually all the trade in the native reserves is in Indian hands.[20]

4. *Discrimination Against Indians*

Disputes have arisen between the Indian population and the Europeans upon four matters: (1) the reservation of the Highlands on the plateau of Kenya to Europeans,[21] (2) restriction of immigration, (3) the commercial and residential segregation of Indians in towns, and (4) the franchise.

As early as 1908, the Governor, Sir J. Hayes Sadler, proposed that the uplands should be reserved for the whites, but that small allotments of land should be made to Indian farmers in the lowlands—that is, in the territory where whites could not live.[22] Lord Elgin, Secretary of State for the Colonies at this time, confirmed this policy, saying, however,

[17] *Report on the Uganda Railway,* C. 9331 (1899), p. 20.

[18] The immigration figures for Kenya are as follows:

	1924	1925
European	3,412	4,212
Indians	5,775	7,161

Colony and Protectorate of Kenya, Report for 1925 (Col. No. 1321), p. 8. The government keeps no emigration figures but from shipping returns, etc., it appears that a larger proportion of Europeans leave the port of Mombasa annually than Indians.

[19] In addition to the Indians there are nearly 10,102 Arabs. Cf. *Census, cited,* 1921, p. 2.

[20] According to the census, 1301 are government servants; 2022 work for the railway; 478 are farmers; 9373 are in commerce and industry. *Ibid.,* p. 31.

[21] Cf. Vol. I, p. 302.

[22] *Tenure of Land in the East Africa Protectorate,* Cd. 4117 (1908), pp. 25, 33.

that grants to Indians in the upland areas should not be barred by legal restriction but merely by administrative convenience.

Carrying out these provisions, the Crown Lands Act of 1915 did not forbid Indians from acquiring land anywhere in the territory, but it did subject transfers of land between members of different races to government approval, which is seldom given.[23] Moreover, in auctioning Crown land in the Highlands, the Land Office makes it one of the conditions of sale that the bidders must be of European extraction.[24] By this means it is made impossible for Indians to acquire land in the Highlands. While in theory they may acquire land in the Lowlands, they have acquired only twenty-two square miles in comparison with the twelve thousand square miles reserved for European farms. Whether this is due to the fact that the land is unattractive or that the Kenya Indian is more of a trader than an agriculturalist, it is impossible to say.[25]

Because of an inferior standard of living the Indian inhabitants of East Africa, many of whom are the descendants of the coolie class and are therefore the less admirable representatives of the Indian people, live under conditions which are frequently unsanitary. This fact was pointed out by Professor Sir William Simpson in an investigation of sanitation in East Africa, made in 1913 at the request of the Secretary of State for the Colonies, who criticized the health conditions of the towns and trade centers of East Africa and recommended that separate quarters be established for Europeans, Indians, and Africans. The Indian population objected, however, to segregation based upon race, and to any restriction of immigration which was then being considered.

As early as 1914, the Government of India impressed upon the Colonial Office the principle that there was no justification for assigning

[23] For two such vetoes imposed upon transactions between Europeans and Indians, see *Gazette, cited,* 1919, p. 4; *ibid.,* 1925, p. 1227. In 1919, a special procedure was laid down for mortgages between two different races, which required that the mortgagee promise not to foreclose without the written consent of the land officer and not to sell property foreclosed except to persons of the same race as the mortgagor. *Ibid.,* 1919, p. 258.

The Land Tenure Commission in 1922 declared that this veto should be replaced by a straightforward definition of racial boundaries, prohibiting transfers between different races within such boundaries. *Report of the Land Tenure Commission,* Nairobi, 1922, p. 6.

There is an implied covenant in every lease to a European that he shall not without consent of the Governor appoint or allow a non-European to be manager of or otherwise occupy leased land. See para. 39, Crown Land Ordinance, 1915.

[24] *Gazette, cited,* 1919, p. 636. In this particular case, the bidder had to be of British extraction.

[25] In Tanganyika Indians have entered agriculture in large numbers, cf. Vol. I, p. 438.

It is understood that there is some good land on the Tana river where Indians could grow large quantities of rice, and the settlement of which would not interfere with either natives or white.

to the Indian population a status inferior to that of any other class of British subjects in a Crown colony and protectorate in the administration of which the local population had no control, especially in view of the restrictions which the self-governing parts of the Empire had put upon Indians. The interests of the Indians in Kenya should be, it believed, especially considered in view of the historic relation between India and the East Coast.[26]

A rude shock to Indian susceptibilities came in 1919, when the Kenya Economic Commission reported: "Physically the Indian is not a wholesome influence because of his incurable repugnance to sanitation and hygiene. In this respect the African is more civilized than the Indian, being naturally cleanly in his ways. . . . The moral depravity of the Indian is equally damaging to the African. . . . The presence of the Indian in this country is quite obviously inimical to the moral and physical welfare and the economic advancement of the native." [27]

Despite Lord Milner's disavowal of this statement, Indian feelings were not soothed. A statement of the Governor in the same year that while Indian interests would not be lost sight of, European interests must be paramount in the Protectorate, did not pour oil upon the troubled waters.

5. *The Franchise Question*

Friction was increased by the passage of the Legislative Council Ordinance [28] in 1919, which provided for a Legislative Council having eleven European members. The original draft of the bill provided for two nominated Indian members, but by the time the bill had gone through the Council, all reference to Indian representation had been omitted. In a despatch of May 21, 1920, Lord Milner issued instructions that the Council should contain in addition to eleven elected Europeans [29] two Indian members—elected by the Indian population as a group—*i.e.* upon a communal franchise. He also declared that the policy of segregation for sanitary reasons and social convenience would be continued and that the Highlands would be reserved for the whites since unlike the Indians they could not inhabit the Lowlands.[30] But he accepted the principle of limited ownership by Indians of town lots.

[26] Cf. the tribute of Winston Churchill, in *My African Journey,* London, 1908, p. 49. Sir Frederick Lugard believes, however, that the Indians were confined to the coast. *The Dual Mandate in British Tropical Africa,* Edinburgh, 1922, p. 318.

[27] *Economic Commission, Final Report,* Part I, 1919, p. 21.

[28] *Ordinances,* 1919, p. 26.

[29] Royal Instructions, XV. *Ibid.,* 1920, p. 131.

[30] Lord Milner's declaration is printed in Government Notice, No. 281, *Gazette, cited,* August 18, 1920. It appears that to obtain the consent of the Indians to this arrangement, Lord Milner proposed to set aside Tanganyika for Indian colonization, cf. Vol. I, p. 439.

These measures did not satisfy the Indian Government, pressed by the Swaraj movement. Following the visit of Sir Benjamin Robertson to East Africa, the Indian Government asked that Indians be allowed to vote upon the same basis as Europeans upon a common electoral roll subject to a non-discriminating education test. It also protested against the segregation proposal.[31] It contended that Lord Elgin's pledge in regard to the Highlands did not prevent Indians from buying private land held by Europeans.

As far as the European population of Kenya was concerned, the Milner proposals were too liberal. The Europeans demanded the ultimate prohibition of Indian immigration into Kenya, and segregation both in regard to residence and the acquisition of land; they were willing to grant to the Indian population only two nominated members in the legislative council.[32]

In the meantime, the Joint Standing Committee on Indian Affairs of the British Parliament accepted the principle that the Indians should not be required to accept a status inferior to that of other British subjects in Kenya, and that a Royal Commission should be sent to the colony to investigate the question.[33]

As a result of this discussion, the Colonial Office amended the constitution of Kenya in 1922 by providing for four nominated in place of two elected Indian members.[34] But this did not relieve local Indian feeling which, backed by India, demanded greater concessions. In the meantime, the Imperial Conference in 1921 adopted a resolution in favor of the removal of Indian disabilities within the Dominions. In 1922, a Kenya deputation went to England. Finally the Wood-Winterton Committee, appointed by the government in England to study the question, made a report which provided for a common electoral roll and a non-discriminating property and educational test, which would result in a ten per cent Indian electorate and would give for the time being four seats to the Indians in comparison with seven to the Europeans. But the official majority would be maintained. While the report proposed to continue the policy of excluding Indians from the Highlands, it opposed an embargo upon Indian immigration and segregation. The authorities should, however, enforce sanitary and building regulations.[35]

[31] Cf. despatch in *Position of Indians in East Africa,* Cmd. 1311 (1921).

[32] Cf. the Memorandum by Lord Delamere and Mr. Archer, *The Indian Problem in Kenya,* p. 10. The European point of view is also expressed in a pamphlet by E. Powys Cobb, *The Thermopylae of Africa, Kenya Colony,* Nairobi, 1923.

[33] Third Report, House of Commons, 177, 1921, *Parliamentary Papers,* Vol. VI.

[34] Additional Royal Instructions, February 11, 1922, *Gazette, cited,* 1922, p. 173.

[35] Apparently this report has never been published; but its terms are summarized in the despatch, *Indians in Kenya,* Cmd. 1922 (1923), p. 7.

When these proposals became known in Kenya, the Kenya European population raised an outcry. They declared that the acceptance of a common franchise, no matter what educational or property restrictions were imposed, would eventually lead to an Indian majority in the unofficial members of the council. It would thus make responsible government out of the question. They did not demand the subordination of the Indians out of consideration of European interests but because of the native who should not become contaminated with the vices of Oriental civilization.[36] They declared that Indians had been disloyal to the Empire during the World War, and that they were engaged in stirring up the natives against the whites. One election manifesto declared that the great issue was "whether Western Civilization, of which the religion and liberty and ideals of the British Commonwealth are guiding influences, or the Civilization of the East is to be the inspiration of Eastern Africa." [37] Most of the European missionaries supported the opposition to the Indians out of a belief that the native would be benefited more by the presence of Europeans than of Indians. In the Legislative Council, Lord Delamere denounced the Colonial Office for instructing the Governor to postpone the election of the European members, which he termed a "wanton and provocative action on the part of the Secretary of State." He considered this act to be illegal. If that was so, it was nothing but direct action on the part of the Secretary of State, and there was no doubt that direct action invariably bred direct action. The British people had always reserved for themselves "the sacred right of resistance" if their rights were overridden by arbitrary acts.[38] Another member reminded the Governor of George Washington, and hinted of the possibility of a Kenya-South Africa republic.

At a mass meeting of settlers held in February, 1923, a resolution was passed that the acceptance of the Woods-Winterton proposals would lead to action "prejudicial to His Majesty's Peace"; and a Vigilance Committee made plans for a military government with a view to driving the Governor out of power and establishing a republic, linked up possibly with a republic of South Africa. A delegation of Kenya representatives actually proceeded to South Africa.[39]

Whether or not because of this opposition, the Governor of Kenya protested against the Wood-Winterton proposals, although they had been

[36] Cf. Vol. I, p. 331.

[37] *The Indian Problem in Kenya, cited,* p. 57.

[38] *Minutes of the Proceedings of the Legislative Council of the Colony of Kenya,* 1922 session, pp. 112-113.

[39] For their South Africa Manifesto, cf. *The Indian Problem in Kenya, cited,* p. 118.

accepted by the Government of India. The H.M.S. *Colombo* dropped anchor in Kilindini harbor at about this time.

6. *The 1921 Settlement*

Following the rejection of this report the Colonial Office proposed that the Governor should come to England accompanied by a delegation representing the European and Indian points of view. The delegation was accompanied by Rev. Dr. Arthur, a missionary, selected to represent native interests. A delegation of three Indian leaders also came from India. These delegates discussed the question with London officials, as a result of which the British Government arrived at a decision which was set forth in a memorandum published in July, 1923.

In this memorandum, the government enunciated the doctrine that the interests neither of the Europeans nor of the Indians but of the Africans "must be paramount." [40]

Responsible government was out of the question for this reason. The government did not believe that the Indians should be allowed to vote on a common electoral franchise with the Europeans because this might lead to elections being fought on racial lines. Therefore it decided that the Indian representatives should be elected on a communal franchise—*i.e.* the Indians should register as such and elect five Indian members to the Council—a system which would permit a much wider franchise than would be allowed if a strict educational test as a qualification for a common electoral roll, should be introduced. No property or educational qualification for voters is now required. Members of the Council must, however, have a knowledge of English so that they can take part in the proceedings of the Council. This decision thus increased the number of elected Indians from two to five, while it provided for one elected Arab in addition to one nominated Arab, together with eleven elected Europeans, and an official majority. Although ultimately the Africans might be given communal representation, for the time being the Governor was to nominate a European missionary to advise upon native interests until natives became fitted for direct representation. Indians continued to be represented on the Executive Council, and they were also to be represented on municipal councils. It had already been agreed that commercial segregation should be discontinued. While residential segregation was regarded as absolutely essential as a sanitation measure, it was to be secured by the rigid enforcement of sanitary police and building regulations, without any racial discrimination. In view of past pledges and policies, the government was to maintain the existing restrictions upon the alienation of land to Indians

[40] Cf. Vol. I, p. 381.

in the Highlands, including transfers, but it was to reserve temporarily an area of land in the Lowlands for Indian agriculture, provided it could be set aside without infringing on native reserves.

While no legislation restricting immigration upon racial grounds would be countenanced, further control over immigration in the economic interests of the native might become necessary in the future.[41]

Legislation was subsequently drafted, it is understood, to restrict the entrance of Indian immigrants; but so far no such legislation has been enacted, and Indians may enter Kenya and Uganda to-day upon virtually the same basis as Europeans.[42]

While the European population of Kenya grudgingly accepted this decision, it met intense opposition from the Indian population in Kenya and in India. In retaliation, the Indian Legislative Assembly introduced, debated, and passed a bill—all in one day—designed to regulate the entry into India of persons domiciled in other British possessions. In proroguing the Indian Assembly, Lord Reading, the Governor-General, declared that the decision was a "great and a severe disappointment." A large number of Indians wished to boycott the Imperial Conference of 1923.[43]

In Kenya, the Indian population showed its attitude toward the measure by abstaining from putting forward candidates at the election of 1924. Meanwhile, discussions were held between the Colonial Office and a committee appointed by the Government of India. While the Colonial Office informed the committee that there was no prospect of a common electoral roll at any definite time, it was willing to adopt the expedient of having the Indians represented by five nominated members. The Indian community in Kenya accepted this arrangement. For some time the practice was for the Indian Congress to hold informal elections at Nairobi, Mombasa, and Kisumu, and the five Indians chosen in this manner were nominated by the Governor. In 1927, it appears that the Indians finally agreed to participate in the elections.[44] An Indian was also appointed a member of the Executive Council.[45]

Although the Indian question was not acute during 1925, it came to the fore in the fall of 1926 when the Legislative Council accepted the principle that each community should bear the expense of the education

[41] *Indians in Kenya,* Cmd. 1922, *cited.*

[42] Each immigrant may be required to deposit a sum which originally equalled passage money home. This sum is naturally much less for the Indian than for the European.

[43] L. F. R. Williams, *India in 1923-1924.* Calcutta, 1924, p. 13.

[44] President's Address. Kenya Legislative Council, *East African Standard, Supplement,* March 12, 1927.

[45] Address of the Acting Governor to the Legislative Council. *Ibid.,* August 15, 1925, p. 14.

of its children. Consequently, it enacted an additional Asiatic poll tax of twenty shillings for the purpose of defraying the expense of Indian education. Instead of imposing a direct educational tax upon Europeans to meet the expense of European education, the Council adopted indirect taxes on liquors and a domestic servant tax amounting to thirty-six shillings a head, the weight of which, it believed, would fall largely upon Europeans.

A minority report of the Indian members of the Council declared that direct taxation should not be applied to one section of the community and indirect taxation to another for the same purpose.[46] The Indian Citizens' Association at Mombasa also passed a resolution expressing its "great resentment against the principle of discrimination in taxation between different communities." It further submitted that "expenses incidental to the education of children in this Colony should be borne by the State." [47]

Although the question of acquiring land in the Highlands is not of practical importance since most of the land is already alienated, the Indians do regard the question of franchise as a test of the sincerity of professions made by the British Empire in regard to the status of equality which India shall eventually enjoy. Consequently they intend, it is understood, despite the present *modus vivendi,* to raise the issue of the franchise again in the future.

* * *

It is difficult to estimate the actual influence which the Indian in East Africa has upon native life and development. The Indian has lower social and moral standards than the European, and he associates more on a basis of equality with the native than the Europeans. The Indian trader—who does not represent the best classes of India—frequently cheats the native through shoddy goods or by short weight, but it is doubtful whether he is worse in these respects than the European trader in other parts of Africa. Already resenting these practises, the Kenya natives are pushing a campaign to get the Indian trader turned out of the reserve. Native traders are favored by the government inasmuch as it does not require them to pay the ordinary license required of other traders. Indian traders and artisans now perform work which natives in other parts of Africa are learning to perform, and the presence of Indian competition in East Africa may operate to retard native artisanship.[48] On the other hand, Indian artisans have in some cases, unconsciously at least, instructed

[46] Legislative Council Minutes, *Ibid.*, November 13, 1926, p. 4. It was estimated that thirty-two thousand pounds would be required for nine hundred and sixty European children and twenty thousand pounds for 2318 Indian children.

[47] *The African Comrade,* December 1, 1926, p. 14.

[48] Nevertheless the railway workshops are now manned entirely by native artisans, under European supervision.

natives in the use of tools. The basis of native existence is not, however, craftsmanship but agriculture, and the Indians have not taken lands wanted by the natives nor have they converted natives into wage earners. This has been due, however to the presence of the European government, and not because of Indian wishes.[49] It is not improbable that the greatest influence of the Indians in East Africa over the natives will be political. As the Thuku instance shows, Indians may furnish leaders and funds for native movements in the future.[50]

[49] Cf. the Indian requests in Uganda, Vol. I, p. 560.
[50] Cf. Vol. I, p. 374.

CHAPTER 19

LAND HUNGER

1. *The Highlands*

One of the most important problems arising between Europeans and natives has been in regard to land—a problem which has been accentuated by the exceptional climate and geography of Kenya. The country falls into two sections: The Lowlands and the Highlands. The Lowlands extend along the coast and into the interior as far as Sultan Hamud Station,[1] and into the northern part of the territory. Few white men have wished to settle in the Lowlands because of the hot, muggy climate, while they cannot profitably or pleasantly pursue agriculture in the semi-arid stretches of the north, which have a rainfall of less than twenty-five inches a year.[2] This territory covers an area of nearly two hundred thousand square miles. The Highlands constitute a central plateau, with an elevation of between four thousand and ten thousand feet. This part of the country, broken by the great Rift Valley and a number of mountain peaks, covers about fifty thousand square miles. Despite the fact that these Highlands lie athwart the equator, they have such a high elevation that a semi-temperate climate is produced. Snow can be seen on Mount Kenya the year around.

When the white man first passed through this part of East Africa, he saw vast areas of land parts of which were apparently uninhabited by any native tribe. A Foreign Office Report in 1902 spoke of the protectorate as having a "climate that is excelled by probably no other in the world . . . a rich virgin soil . . . a good supply of cheap labor. . . ." [3]

Writing in 1893, Captain (now Sir Frederick) Lugard said that it would fall to the special province of the local executive to "develop in the highlands of Central Africa those European settlements which," he thought, would "rapidly arise around headquarters." [4] Mr. (now Sir)

[1] At present, however, it is understood that white settlement is being actively considered not only at Sultan Hamud but also on the Serengati plains, while there are already a number of white residents on the plantations at Voi and Kilwezi.

[2] Cf. *Economic Commission, Final Report,* Part I, p. 12.

[3] *Report on the Agricultural Prospects of the Plateaux of the Uganda Railway,* Cd. 787 (1902), p. 6.

[4] F. Lugard, *The Rise of our East African Empire,* London, 1893, Vol. II, p. 656.

Harry Johnston, a special commissioner of the British Government to Uganda, wrote that the Nandi Plateau was adapted by nature to be a "White Man's Colony" and "should be divided into estates of moderate size and thrown open to settlement at the hands of natives of the United Kingdom. . . ." He believed that this tract of land, "if it lay within the limits of Australia, or a South African colony, would maintain a prosperous European population of five hundred thousand souls." [5] Sir Charles Eliot, High Commissioner in 1901, called attention to the same possibilities.[6]

2. *The Crown Lands Ordinance,* 1902

Settlers entered this country in the early nineties, and acquired land either from the natives or from the East Africa Company, under Land Regulations issued in 1897. Apparently the first official encouragement of white settlement [7] came in 1902 when the British Government offered part of East Africa to the Zionist Organization as a national home for the Jews—an offer which was finally declined after protests from the European settlers already in the territory.[8]

The East Africa Order in Council of 1902 empowered the Commissioner to alienate Crown lands, and was followed by the enactment of the Crown Lands Ordinance of 1902, which authorized the Commissioner to sell land not in excess of one thousand acres, and to lease land for ninety-nine years. The ordinance provided that upon termination of the lease, buildings would pass to the government without compensation. In every lease there was an implied covenant by the lessee not to assign the land leased without the consent of the Commissioner. The administration could impose development conditions.[9]

White settlement definitely began in May, 1903.[10]

As a result of advertisements in South Africa, a number of South Africans bringing with them preconceived ideas in regard to native policy

[5] H. Johnston, *The Uganda Protectorate,* London, 1902, Vol. I, p. 299. At the time this book was written, Uganda included the provinces of Naivasha and Kisumu.

[6] *Report on the East Africa Protectorate,* Cd. 1626 (1903), pp. 18, 30.

[7] In 1893, a Freeland Association, having its headquarters in Vienna, unsuccessfully approached the East Africa Company in regard to a settlement in the territory which it wished to establish along socialistic lines. Cf. P. L. McDermott, *British East Africa or Ibea,* London, 1895, p. 363.

[8] In the *Gazette, cited,* 1905, p. 272, this notice was published: "The Zionist organization having refused the offer of land made to them by His Majesty's Government in the Protectorate, the area which was reserved for them, commonly called the Uasin-Gishu plateau, is now thrown open for colonization." This notice was temporarily cancelled a month later (p. 309) because of intended operations against the Nandi.

[9] *Ordinances,* 1876-1902, *cited,* p. 153.

[10] *Government Lands in British East Africa and Uganda,* Return, 312, 1907.

soon took up their abode in East Africa.[11] To encourage settlement, a number of free grants of six hundred and forty acres were made.[12]

Despite official sanction for the policy of white settlement, the local administration failed to prepare the way for settlers. Many who arrived could find no hotel accommodation; no roads were in existence; and "colonists went wandering about asking to be shown land which they could take up and were unable to find it, in spite of the thousands of square miles all around needing nothing but owners." [13] Because of the absence of a competent Government Land and Survey Department, the government issued conflicting titles and otherwise produced confusion.

In 1904, Sir Charles Eliot resigned as High Commissioner because of concessions made by the Foreign Office to a large syndicate having its headquarters in London, which he had opposed.

In order to clear up the land muddle, the new Commissioner, Sir Donald Stewart, appointed a Land Board [14] which came to be presided over by Lord Delamere, a settler who has ever since been the leader in the movement for the European occupation of East Africa.

After some study of the land situation, the Board, while it supported the principle of beneficial occupation, recommended that the Crown Lands Ordinance of 1902 be amended so as to remove the restrictions upon the acquisition and transfer of property which had been imposed to prevent speculation and monopolies. But the Board was of the opinion that these restrictions impeded business which required the "greatest possible security" to title and "the greatest possible freedom" of transfer. The Board did not object to speculation, which, it said, "is, after all, only a sign of activity," and it considered that it was of greater benefit to the country to "secure active life and freedom in business affairs than to shrink from taking the necessary steps to that end for fear that over-speculation will be indulged in." The Board believed that "the first object of the Government must be to push speedy settlement." [15]

But the Colonial Office declared that any land legislation should contain restrictions to prevent speculation, and to insure development. In a despatch of March 19, 1908, Lord Elgin wrote: "The most important point of difference was the question of the duration of the leases and the conditions on which the lessees should be able to transfer their

[11] Cf. a *Report on the Pastoral and Agricultural Possibilities of the East Africa Protectorate,* by three South Africans, written at Krugersdorp, Transvaal, for distribution among South Africans. In 1905, the Agricultural Department of the East Africa Government also published a pamphlet on "Settlers' Prospects."

[12] Notice, *Ordinances,* 1903, p. 22.

[13] Eliot, *The East Africa Protectorate,* London, 1905, p. 175.

[14] *Gazette, cited,* 1904, p. 375.

[15] Its report is published in *House of Lords Papers,* 158, 1907.

property. On the one hand, the settlers are naturally anxious that the land on which they spend their labor should be a marketable and mortgageable security. On the other hand, it is clear, looking to the experience of other Colonies, that steps must be taken to prevent the accumulation of enormous quantities of land in the hands of individuals through the operation of free transfer, and also that the conditions of tenure must be such that the Government may be able from time to time to obtain its share of the unearned increment in the value of the land—that is, the portion of its value which is due to the growth around it of an organized economic and political system." [16] He elsewhere pointed to the example of New South Wales where, after pressure from colonists, the government removed restrictions on transfer and acquisition, with the result that half of the forty-two million acres which had been alienated by 1891 had fallen into the hands of six hundred and seventy-seven owners, and only two per cent of the land was under cultivation. This land policy obliged immigrants to move into the cities.

While the Colonial Office rejected the Land Board's proposal that land should be granted on perpetual lease without reassessment of rent, it gave up its demand for twenty-one year leases in favor of ninety-nine year leases, at rents revisable on a basis of five per cent of the unimproved value of the land. It asked that a land surtax be imposed to check excessive accumulations in the hands of individuals. The Colonial Office decided that the government should have the power to prohibit absolutely holdings of more than one hundred thousand acres and that provisions against "dummying" [17] and plural applications should be made.

Following out these instructions, the local government introduced into the Legislative Council in 1908 a Crown Lands Bill embodying these suggestions to take the place of the Ordinance of 1902.[18] But local influence was so strong that amendments were inserted cutting away the

[16] *Tenure of Land in the East Africa Protectorate,* Cd. 4117, p. 30. Inasmuch as the government was partially barred from increasing customs duties because of the Act of Berlin, it was all the more necessary to secure a revenue from the land.

[17] Dummying was a practice of obtaining grants through straw men. In exonerating Lord Delamere of the charge, the government defined the practice as "putting in the names of female and other relatives in England who were not likely to visit this country for land grants and obtaining from such relations, when the grants were made, powers equivalent to complete possession, as means to exceeding the acreage which Government was willing to grant to individuals." Cf. *Correspondence with the Government of Kenya relating to Lord Delamere's acquisition of land in Kenya,* Cmd. 2629 (1926), p. 5. Kenya officials assert that only a few cases of actual dummying took place.

[18] Its text is published in the *Gazette, cited,* 1908, p. 544. By 1907, the administration had alienated in the form of leases 987,761 acres of land, from which it received annual rents of 44,048 rupees, and it had sold 96,479 acres for 180,855 pounds. *Government Lands in British East Africa and Uganda,* H. C. Return 312 (1907).

provisions in regard to the revision of rents, dummying, and a land tax, with the result that the law failed to receive the assent of the home government.

In 1913, the Colonial Office gave way on the land tax question, but insisted that leases should be limited to a term of ninety-nine years and that the Governor should have power to veto transfers. A bill to this effect, which also provided for auction in place of the former system of individual grants, was introduced into the Legislative Council in 1913.[19]

But the unofficial members of the Council again induced the government to accept amendments increasing the period of leases from ninety-nine to nine hundred and ninety-nine years, and restricting the power of the Governor over transfers to those between members of different races —a measure designed to prevent the sale of land in the Highlands by natives to Indians or Europeans.[20] Worn out by a struggle which had lasted since 1905, the Colonial Office yielded, and the bill, as amended, became the Crown Lands Ordinance of 1915.[21]

3. *Crown Lands Ordinance, 1915*

Under this ordinance, leaseholds not exceeding five thousand acres [22] may, therefore, be granted for nine hundred and ninety-nine years, and leases acquired under the 1902 ordinance may be converted into leases held under the 1915 ordinance. The grant is thus virtually a freehold except that the government charges an annual rent which is subject to revision once every thirty years, and that the subdivision and sub-letting of farms without the consent of the Governor-in-Council is prohibited.[23] The rent is twenty cents [24] per acre per year until 1945. Between 1945 and 1975, rent may be revised at the rate of one per cent of the unimproved value of the land; between 1975 and 2005, at two per cent, and for later periods, at three per cent of the unimproved value of the land.

Development conditions are imposed as on the next page.

"Additional improvements to the extent of fifty per cent of the above figures under each heading are to be effected within a further period of two years and the total development must be maintained for the remainder of the term of the lease." [25]

[19] *Gazette, cited,* Supplement, December 1, 1913.
[20] Cf. Vol. I, p. 290.
[21] *Ordinances,* 1915, p. xxii.
[22] Holdings up to seventy-five hundred acres may be granted with the consent of the Secretary of State.
[23] Cf. Section 42.
[24] The East African shilling being divided into one hundred cents. The 1915 Ordinance fixed the rate at ten cents but the pamphlet of the Kenya Land Department, "Land" places it at twenty cents.
[25] *Land and Land Conditions in the Colony and Protectorate of Kenya,* Land Department, Nairobi, 1922, p. 8.

Development conditions upon land in Kenya

Area of Farm	Minimum value of improvements to be effected within the first three years of the lease	Nature of improvements
300 acres or under	Shs. 20 per acre, subject to a minimum of Shs. 600	Permanent
Over 300 acres	Shs. 6000 and in addition Shs. 4 per acre in respect of every acre over 300 acres	Permanent Permanent and or Non-permanent

At the present time, land rents bring into the local government about fifty thousand pounds a year; in 1925, about three thousand pounds' rent from farmers was in arrears.

Despite the development conditions of the Crown Lands Ordinance of 1915, only a small proportion of the land alienated to settlers is under cultivation, as the following table shows.

Ratio of acreage under cultivation to total acreage occupied[26]

Year	Total occupied area	Total cultivated area	Percentage cultivated to occupied land
1925	4,420,573	392,628	8.88
1924	4,192,731	346,988	8.28
1923	3,985,371	274,319	6.88
1922	3,804,158	234,055	6.15

On a basis of six acres per head for cattle and three acres per head for sheep and goats, the land used for grazing purposes per occupier is seven hundred and fifty-seven acres for cattle and three hundred and twenty-six acres for sheep and goats. The average area under cultivation is two hundred and thirty-two acres, making the total area developed per occupier 1315 acres.[27] At the present time, about 7,590,000 acres have been surveyed into farms and are either alienated or available for alienation. Of the surveyed land, only 5.235 per cent is being cultivated. Inasmuch as all available Crown land will soon be taken up, new immigrants will be obliged to buy land from present holders who, since they are cultivating only a small percentage of their property, will be

[26] Agricultural Census, *Sixth Annual Report of the Department of Agriculture*, Nairobi, 1925, p. 7.

[27] *Ibid.*, Table 1, p. 9. For the South Africa figures cf. Vol. I, p. 85.

glad to sell. Consequently, the present white population of Kenya is in favor of immigration partly because it will increase the price of its land. Under existing conditions, present owners will make profits not so much out of productive farming as out of more or less speculative real estate.

Although during the World War land alienations were suspended, the Kenya Government under the influence of a military Governor, Sir Edward Northey, adopted a scheme of Soldier Settlement, by which some two million acres of land in a thousand farms were allotted to ex-soldiers in 1919.[28] A portion of the land was devoted to free grants, while the major portion was surveyed into farms of between three hundred and five thousand acres, which were sold at from three shillings to fifty shillings an acre.[29] About seven hundred and seventy out of the 1,031 farms have remained with the original allottees. Much of the land originally alienated lay in the Nandi reserve.

Thus the settler population, after the manner of many pioneer populations, has been interested in the acquisition of land as much for speculative as for productive purposes. The Kenya population, as this chapter points out, has proved strong enough to defeat many of the proposals of the Colonial Office aimed at insuring real development.

[28] The Discharged Soldiers Settlement Ordinance, 1919; *Ordinances,* 1919, p. 18. Crown Lands (Discharged Soldiers Settlement) Ordinance, 1921; *ibid.,* 1921, p. 1.

[29] According to a pamphlet of the Kenya Land Department, at the end of three years, the allottee was allowed to apply for complete remission of the purchase price. *Land and Land Conditions in the Colony and Protectorate of Kenya,* 1922, p. 9.

CHAPTER 20

NATIVE RESERVES

THE land history of Kenya is important not only from the point of view of the Europeans but also from that of the native inhabitants. The total native population of Kenya, as has been stated, is about two and a half million. More than 1,600,000 of these natives are found in the provinces of Nyanza, Kikuyu and Ukamba. Part of this area lies in the Highlands.

At the end of the nineteenth century, epidemics ravaged the country which greatly reduced the population of the Kikuyu and the Masai—the first a Bantu and the second a Hamitic people. Wars of the Akamba and the Kikuyu against the Masai also devastated large areas which became No Man's Land patrolled by native sentries stationed to watch the movement of the enemy.

Because of disease, warfare, and simple accident much of the Highland area of East Africa was uninhabited at the time of the entrance of the Europeans. In 1902, Mr. Harry Johnston wrote, "Over the greater part of this extent there is not a single *settled* native inhabitant, no one in the shape of a black man but a few wandering hunters. Consequently we are committing no act of injustice toward an indigenous population in offering this land to the British settlers." [1]

1. *Native Land Rights*

It appears that white settlers who entered the country in the early '90's purchased land from the native chiefs, who, according to some authorities, sold it, in many cases, in violation of native law and without realizing the nature of the transaction.[2]

In an effort to safeguard natives against improvident alienations, the South Africa Company in 1897 issued Land Regulations which stipulated that no such sale would be valid unless registered with the government. The Company also recognized native rights by providing that

[1] *The Uganda Protectorate, cited.* Vol. I, p. 299.

[2] In its petition to the East Africa Commission in 1924, the Kikuyu Association said, "We wish to state most emphatically that no chief, headman or other person has any right or has ever had any right, according to our customs, to arrange or agree on his own authority to the transference of any land; that is a matter for the owning families or individuals concerned."

no land cultivated or regularly used by any native should be alienated to a European.[3]

In 1902, the British Government issued an Order in Council which authorized the Commissioner to alienate Crown lands, which included "all public lands" subject to the control of or acquired by the British Government. Although this definition did not state whether native lands were regarded as belonging to the Crown, other provisions in the Order declared that minerals in land occupied by "any native tribe" should vest in the Commissioner "in like manner" as the minerals in "any Crown Land"—a provision which made a distinction between native and public land.[4] The Order granted the Crown power to alienate only the latter.

The Crown Lands Ordinance of 1902 (Section 30) provided that "In all dealings with Crown land regard shall be had to the rights and requirements of the natives and in particular the Commissioner shall not sell or lease any land in the actual occupation of the natives."

The Commissioner could, however, grant leases of areas of land containing native villages or settlements without specifically excluding such villages or settlements, "but land in the actual occupation of natives at the date of the lease shall, so long as it is actually occupied by them, be deemed to be excluded from the lease."

The Commissioner could allot for the purpose of native settlements or villages portions of the land so leased and when and so long as these portions were so occupied, they were to be deemed excluded from the lease.

Any land within an area leased which had been in the occupation of natives would, on ceasing to be occupied, pass to the leasor—a provision which gave settlers an incentive to have their African neighbors moved.[5]

These provisions seemed to ignore the former distinction between native and public land. Nevertheless, the ordinance did contain certain provisions purporting to safeguard native rights.

The next step came in the Crown Lands Ordinance of 1915 which declared that all Crown land, which included "all land occupied by the native tribes of the Protectorate and all land reserved for the use of the members of any native tribe" could be alienated by the Governor, subject to certain restrictions. Similar provisions were inserted in the Kenya

[3] In regulations of April 26, 1897, the Company provided: "Whereas certain evil-disposed persons have been in the habit of acquiring land from women at inadequate prices owing to the ignorance of the owners as to its true value, all such transactions must be certified as fair and reasonable by a government official before they are valid." *Ordinances, cited,* 1876-1902, p. 35.

[4] Sec. 7, East Africa Order in Council, 1902, *Gazette, cited,* 1902, pp. 249, 305.

[5] As we shall see, the present tendency is to have them stay as squatters. Cf. Vol. I, p. 325.

Order in Council of 1920. By this series of enactments, the British Government gradually dropped out the distinction between native and public land, and the provisions originally inserted to give the natives some protection against the encroachment of the European upon their holdings.

The administration did not, however, deliberately alienate all land occupied by natives to Europeans. Perhaps the majority of land suitable for European occupation was land which was not for the moment occupied. Definite conflicts arose, however, in the case of the Kikuyu and of the Masai, who occupied attractive farming land. The policy of the government toward lands in regard to which there was a definite conflict of European and native interest has been described by the Kenya Missionary Council as follows:

"Five or six years after the establishment of the Protectorate numbers of European settlers began to arrive, and then the Africans were faced with the surprising spectacle of extensive portions of their tribal land being handed over into the newcomers' possession by the Government whose proclaimed function was to 'protect' the Native peoples. Areas in the tribal lands of the Kikuyu, Kamba, Nandi, and the Wanyika of the Coast were alienated in this way. (We leave aside the controversial case of the pastoral Masai who occupied their territories under conditions so different from the Bantu and other cultivations beside). A show of obtaining the Natives' consent was made in some instances, but in reality no option was given them. Where consent was obtained, it was given either under pressure or in want of comprehension on the part of the people concerned as to what would be the permanent effect of such consent as they gave. The Government went apparently on the mistaken supposition that the only land the people had any real right in was the land actually under cultivation at that particular juncture, and, in Kikuyu, for example, such compensation as was given was given upon that basis only: it was at the rate two rupees an acre. Those who withheld their consent or who demurred at remaining on the land as 'squatters' of the new owner had to take the alternatives of finding new homes and new gardens where they could, in spite of the provisions of the Crown Lands Ordinance 1902. Probably the above distinction between cultivated and fallow land made by the Government helped to obscure in the Native's mind the fact that they were being deprived, not only of their cultivated areas but of their fallow land as well. However that may be, and whether or no a form of consent was given at the time, the fact remains that such consent is repudiated by the Africans to-day, and they persist in describing the act of alienation of the land as robbery on the part of Government and settlers. They were not yet confident enough (the recollection of the peremptory enforcement of Government's wishes in earlier days was still fresh) nor sophisticated enough to make effectual protest against these transactions."

2. *The Case of the Kikuyu*

The situation in regard to the Kikuyu people requires more detailed discussion. It appears that this interesting people, who include about half a million souls, moved southward from the slopes of Mt. Kenya not more than a hundred years ago.[6] The territory where they took up their new residence—in the very center of the Highlands area—was at that time covered with heavy forests which were occupied by a race of hunters, called the Wandorobo, who were interested only in hunting and were glad to sell vast areas of forest to the Kikuyu in return for agricultural produce from the soil. Consequently, the Kikuyu are said to have actually paid over thousands of cattle and goats to the Wandorobo for this forest land which by the dint of hard labor they cleared for gardens. The Wandorobo intermarried with the Kikuyu and for a time paid dowry for Kikuyu wives in the form of forest land.

The land which the Kikuyu thus acquired by purchase was not held communally but by a type of individual holding called *Gethaka.* The original Kikuyu who acquired the land had too much to clear by themselves. Consequently they allowed a number of other Kikuyu to settle as occupiers. As a result of the combined efforts of these holders and occupiers, the Kikuyu country has been stripped of its forests, and the land is now covered with a patch-work of garden plots, owned by Gethaka holders. In the course of time, some Gethaka occupiers arranged to pay to the original holder a number of goats or some other compensation for a portion of the land, whereupon they too became Gethaka holders. The process of subdivision has continued until to-day it is claimed that there are more holders than occupiers. Under Kikuyu law, no Gethaka holder may dispose of any land to a non-Kikuyu. The holder is in practice the "father" of the people living on the Gethaka, either as members of the family or as occupiers.

When the Europeans came to the Kikuyu country, they found some of the choicest land in the territory thus cleared by Kikuyu efforts. Partly because of an inadequately organized Land Office, the government made no inquiry into the system of tenure which prevailed nor of the circumstances under which the Kikuyu had acquired the land. It merely instructed administrative officers not to alienate land under actual cultivation. They could, however, even alienate land under cultivation subject to a payment of from four to six shillings to the cultivator driven off his

[6] Cf. M. H. Beech, "Kikuyu System of Land Tenure," *Journal of the African Society,* Vol. XVII (1917), pp. 46, 136. Also W. S. and K. Routledge, *With a Prehistoric People, The Akikuyu of British East Africa,* London, 1910, pp. 3 ff.

holding. According to one writer, "many hundreds of square miles of land that had been purchased by the Kikuyu at a high rate, by themselves or their fathers in some cases quite recently, became the property of white settlers, who eventually got their title-deeds, without the rightful owners even being aware, until much too late to be of use to them, that the property was changing hands. A glaring case in point is that of Headman Koinange wa Mbiyu of Kyambu District. Although certain people who were cultivating portions of his estate by the courtesy of members of his family or himself did receive a few rupees compensation, neither he nor any of his family even got one cent, and it was only when he was sent for by the new owner and told that he must supply labor or leave the property that he discovered that he himself was no longer its owner." [7] Later, the government proceeded to establish forest reserves on land which the Kikuyu had not cleared, without gaining their consent, as is done in West Africa. The government now requires the natives wishing to gather fire wood in these territories to pay a fee.

There is no doubt but that in the case of the Kikuyu, unlike the Masai, the British Government was confronted by a highly developed system of individual tenure, land held by Gethaka which had been actually purchased from its former owners—the Wandorobo—and which had been cleared of forests by its occupiers. Kikuyu property rights appear therefore to fall within the category of rights approximating European conceptions, which the Privy Council in the Southern Rhodesia case declared should be enforced against the government. The courts of Kenya did, in fact, enforce the claims of Gethaka owners against native trespassers.[8] But in 1921, the Kenya High Court ruled that in view of the provisions of the Crown Lands Ordinance, 1915, which declared native reserves to be Crown Lands, and the Kenya Colony Order in Council of 1921, all land reserved for the use of a tribe was vested in the Crown. Consequently, "All native rights in such reserved lands whatever they were under the Gethaka system, disappeared and the Natives in occupation of such Crown land became tenants at will of the Crown." [9] The court would not therefore assume jurisdiction in a dispute between two natives over the ownership of land. Such disputes must be decided by the political branch of the government, unhampered by judicial control. It followed from this decision that as a result of the legislation cited by the court, the Kikuyu could not sue the government for confiscating their property.

Nevertheless, the administration in 1908 seemed to recognize that an

[7] Canon H. Leakey, *Memorandum re. Kikuyu Land Tenure.*
[8] Kabato v. Nago, *East Africa Law Reports,* 1920, Vol. 8, p. 129.
[9] Gathomo v. Indangara, *Ibid.,* 1921, Vol. 9, p. 102.

injustice had been done to the Kikuyu when it ordered administrative officers to make a list of all land belonging to the Kikuyu which had been alienated to Europeans together with the amounts originally paid by the Kikuyu owners to the Wandorobo for this land. No further steps, however, were taken. In a statement to the East Africa Commission, the Kenya Missionary Council declared in 1924 that some compensation should be paid. If the Kenya Government sees its way clear to investigate the facts and, if true, to compensate the Kikuyu it will have gone a long way in clearing itself of the charge that it has "robbed" natives of their lands for the benefit of Europeans.

3. *Gethaka Titles*

Difficulties have also arisen over the nature of the Gethaka rights as between the holder of the Gethaka and the occupier. It appears that originally the Gethaka owner received rent from the holder in the form of fees, but he could not dispossess the holder. With the growing population of the reserves the Gethaka holders have in some instances lost sight of their former obligations, while on the other hand the demand for land has increased, and trespassing has occurred. The Gethaka owners have attempted to have their rights enforced by the courts; but the courts have ruled that inasmuch as the native reserves are Crown land, disputes over the occupation of the land must be settled by the administration. The Gethaka holders therefore believe that their position *vis-à-vis* native occupiers is uncertain. Consequently they have repeatedly demanded that the government issue them Gethaka titles. At one time the government agreed to register Gethaka holders, but it appears that little has been done so far to satisfy their demands. The administration has a delicate problem on its hands because it must avoid the danger of placing the control of practically all the land in the Kikuyu reserve in the hands of a special class of landlords who, once in possession of a title, would feel exempt from the obligations which the old native custom imposed—and would thereby create a landless class.[10]

4. *The Akamba and the Nandi*

The Akamba people also suffered from the European settlers' invasion. According to a petition submitted to the East Africa Commission, they were deprived of about half the land which they claimed as their own. The Nandi, a tribe numbering about thirty-one thousand people who are related to the Masai, have received similar treatment. In 1905, the Nandi

[10] Cf. the Butaka Controversy in Uganda, Vol. I, p. 594.

rebelled against the Europeans, which was apparently caused in part by European occupation of their lands.[11]

Following this revolt, a Nandi reserve was provisionally laid out which materially reduced the holdings of the tribe. Until the close of the World War, the Nandi remained undisturbed. At that time, in order to carry out the plans for Soldier Settlement, the Kenya Government alienated about a hundred square miles of the reserve, apparently without the knowledge of the Colonial Office at home.[12] But upon the protest of a newly appointed Chief Native Commissioner, about half of the Nandi land was returned. The remainder is now in European hands.

5. *The Masai Move*

The case of the Masai stands on a different footing from that of the Kikuyu. While the Kikuyu had a highly developed system of tenure, and were agriculturists, the Masai—a proud nation of warriors—have led a wandering existence[13] and have therefore not developed any individual or even family rights in the land. The Masai, a cross between the Africans and the Galla people of the north, are headed by a Laibon or priest, having powers similar to those of a paramount chief. While the men are tall and slender, the women cultivate obesity, and wear immense coils of iron around their necks, arms and legs. The people, not being agriculturists, live almost wholly on sour milk, blood, and the meat of their cattle. The natives are divided into clans, each headed by a chief. At a very early age, children leave their parents and go to live in large huts of their own. Following the circumcision ceremony, which takes place at about the age of fifteen, the boys enter warrior villages where becoming Murans they learn the arts of war and live together promiscuously with the young unmarried girls. It is contrary to Masai custom for a girl to remain chaste above the age of fourteen. The men remain as warriors for a period of from seven to fourteen years and then go through the septennial ceremony, after which the men may marry.[14] Before the

[11] A semi-official writer, A. C. Hollis, in *The Nandi,* London, 1909, p. 1, says, "The Nandi tribe inhabited, until 1905, the whole of the highlands known as the Nandi plateau. This country was roughly bounded by the Uasin Gishu plateau, extending to Mount Elgon on the north, by the Nyando valley on the south, by the Elgeyo escarpment on the east, and by Kavirondo on the west. Recently, as a result of a punitive expedition, rendered necessary by the continued attacks of the warriors of certain sections of the Nandi on the Uganda Railway and on inoffensive tribes, the whole tribe has been placed in a reserve somewhat to the north of the escarpment which bears their name, and away from the immediate neighborhood of the railway."

[12] *Report of East Africa Commission,* Cmd. 2387, p. 29.

[13] Cf. Vol. I, p. 445.

[14] Sir C. Eliot's introduction to A. C. Hollis, *The Masai, Their Language and Folklore,* Oxford, 1905; also Merker, *Die Masai,* Berlin, 1904.

coming of the Europeans, the Masai spent their time in plundering other tribes.

When settlers first came to East Africa, the Masai roamed through the territory now traversed by the Uganda Railway from Molo to Naivasha and from Nairobi to Kiu. About 1890, they suffered from a double epidemic of rinderpest and smallpox which greatly reduced their numbers. The traditional enemies of the Masai—the Kikuyu and the Kamba—took advantage of their weakened condition to kill off a few more. To-day the Masai population is about forty-three thousand.

Upon being informed that the Rift Valley—the happy hunting ground of this warrior race—was comparatively "unoccupied," the British Foreign Office granted a large concession there to the East African Syndicate—an action which led to the resignation of Sir Charles Eliot, the High Commissioner.[15]

Inasmuch as the Rift Valley was the choicest land in Kenya, in order to give a free hand to European settlers, the Foreign Office decided to remove the Masai, placing them in two reserves, one to the north—on the Laikipia plateau—and one to the south. In an attempt to forestall the warnings of local administrators,[16] the diplomats of the British Foreign Office, then in charge of the protectorate, ordered local officials to negotiate a "treaty" with the Masai gaining their consent to the move. This agreement stated that the Masai would vacate the whole of the Rift Valley which would be used by the government for the purpose of European settlement. The Masai asked that the settlement in the two reserves should endure "so long as the Masai as a race shall exist" and that Europeans should not be allowed to take up land in the reserves. The government agreed that a road half a mile wide connecting the northern and southern reserves should be constructed.[17]

As a result of this treaty, the Masai gave up more than half of the land they had previously occupied with their herds. The separation of the Masai people into these two reserves, aggravated by the failure of the government to carry out its promise to construct the connecting road,

[15] Cf. Vol. I, p. 300.

[16] Sir F. Jackson had declared, "The Masai will never give us serious trouble so long as we treat them fairly and do not deprive them of their best and favourite grazing grounds." Quoted by G. R. Sandford, *An Administrative and Political History of the Masai Reserve,* A semi-official history published by the government, 1919, p. 22.

Sir Charles Eliot had opposed the creation of reserves for the Masai on the ground that it would lead to stagnation.

[17] The semi-official history of the Masai says that in approving the treaty the Secretary of State "emphasized the fact that the definite acceptance of the policy of native reserves implied an absolute guarantee that the natives would, so long as they desired it, remain in undisputed and exclusive possession of the areas set aside for their use." *Ibid.*, p. 25.

led to discontent which was increased by the fact that the water supply in the northern reserve located on the Laikipia plateau proved inadequate for the Masai herds. This difficulty the government attempted to overcome by periodically enlarging the reserve to the south. Moreover, when settlers became aware that the Laikipia plateau contained excellent farm land, they demanded the revision of the treaty of 1904. After negotiations, the government finally gained the "consent" of the leaders of both the northern and southern Masai for the transfer of the northern Masai to the southern reserve. It appears that these leaders were more concerned about reuniting the tribe than about the question of land, which the government agreed to extend.[18] But the Colonial Office telegraphed that the Masai must remain in the northern reserve until a new treaty had been made.[19] At this, the northern Masai frankly said that they did not wish to leave the Laikipia plateau. These objections were later withdrawn, and in April, 1911, a new treaty was made[20] in which the Masai stated that they were satisfied that it was to the best interest of their tribe "that the Masai people should inhabit one area." For its part, the government undertook "to endeavour to remove all European settlers" from the areas which would be added to the southern reserve. As a result of negotiations, the administration exchanged about six thousand five hundred square miles of stock land in the southern reserve in return for four thousand five hundred square miles of agricultural land, presumably of much greater value, upon the Laikipia plateau.

In the meantime, a number of Masai who opposed the 1911 agreement sued the state for injuries arising out of the move. They contested the validity of the treaty on the ground that its signers had no authority to enter into such an agreement, which was therefore void, and that the 1904 agreement consequently remained in force. They asserted that the government became trustees of the Masai by virtue of the agreement of 1904, that the agreement of 1911, which was contrary to the 1904 agreement, was derogatory to the interests of the "cestuique trust," that it was obtained by duress, and that it had not received the approval of the tribe.

This argument was rejected by the Court of Appeals of East Africa which heard it upon appeal. The court declared that inasmuch as the territory had not been annexed but was merely a protectorate, the Masai were not British subjects; that the heads of the Masai tribe were capable of making agreements with the British Government; that the courts could

[18] *House of Commons Debates,* July 26, 1911, Cols. 1325 ff. Mr. Ramsay MacDonald had vigorously opposed the move in parliament.

[19] *Correspondence Relating to Masai,* Cd. 5584 (1911), p. 3.

[20] The text of both the 1904 and 1911 treaties is printed in Sandford, *cited,* Appendices 1 and 2. The 1904 agreement may be found in Cd. 5584, *cited,* p. 11.

not inquire into the question as to whether these agreements had been made under duress or under proper authority; and that acts of officers taken to give effect to such treaties ratified by the home government were acts of State over which the court had no jurisdiction.[21]

Had the British authorities made a contract in 1904 with a European settler granting him certain land, the contract would have been enforceable in the British courts. But according to this decision, an agreement made between the British authorities and the representatives of some forty thousand natives was not enforceable by the courts. If the Masai nation really had an international status as a state, no objection to this decision might legally be taken. But in the case of East Africa, the British had extended a judicial system throughout the country and it had erected a Legislative Council, the acts of which the Masai were obliged to obey. Their consent to these acts was as tacit and as fictitious as the consent which Rousseau's happy savage gives upon entering the social compact. A few years later, the Privy Council decided that despite the fact that Southern Rhodesia had never been actually annexed, it was in effect annexed to the Crown, because of the permanent occupation which had been established throughout the country.[22] If the same argument had been followed in the Masai case, the court would have held that in view of the permanent European settlement in East Africa, it had become in effect part of the Crown's dominion, and that the Masai were therefore entitled to the guarantees of British subjects. If the rights of the Crown were as limited as this judgment implied, it would appear that both the Crown Land Ordinance of 1902 and that of 1915 authorizing the alienation of land were *ultra vires*. In the protectorate of Sierra Leone, it has even been held that for the purpose of taking an oath of allegiance to the Legislative Council and of joining the army, a resident of the protectorate is a British subject.[23] Thus the Masai judgment appears to be inconsistent with the opinion of the Privy Council in the Rhodesian case.[24] It is a curious fact that both decisions conform to the interests of the European instead of the native population.[24]

Following this defeat, the Masai appealed to the Privy Council, but the action lapsed owing to failure "to give security for costs."

Having overcome these legal difficulties, the government now proceeded to complete the Masai move. By April, 1913—two years after the treaty—the Masai had been cleared out of the Highlands and sent below the railway line. The government historian naïvely remarks, "The Masai did

[21] Ol Le Njogo v. the Attorney General, *East Africa Law Reports*, 1913, Vol. V, p. 70.

[22] Cf. Vol. I, p. 210.

[23] Cf. Vol. I, p. 881.

[24] For the same doctrine in the French colonies, see Vol. I, p. 1023.

not, on the whole, settle down contentedly in their new surroundings and they showed a disposition to make the worst of everything. Complaints were incessant that the country was unsuitable for them and for their stock, and every device short of active resistance was employed to obstruct the Administration and to defeat the ends of justice [*sic.*]. . . . This discontented feeling began to disappear some six months after the completion of the move, and raids, murders, and stock thefts decreased in number. Two years after their arrival the Masai could be described as contented and happy in spite of their dissatisfied disposition."[25] Two revolts since then throw some doubt upon this optimistic afterthought.

As a result of these moves, the Masai were obliged to vacate the Rift Valley, which is the most attractive part of the Highlands, and accept a large reserve south of the Uganda Railway, one-third of which is uninhabitable. To quote the Masai history again,

"The wealth of the Masai is entirely invested in stock, and is said to amount to the colossal figure of 715,000 head of cattle, more than 2,000,000 sheep and goats, and 10,000 donkeys. This stock is concentrated in a reserve of some 14,600 square miles in extent, of which part is waterless and unfit for stock, and of which part is regarded by the Masai as unsuitable for cattle owing to a suspicion of disease. These two actual and problematical disabilities combine to make the stock-carrying capacity of the reserve but little in excess of what it carries at present, and it is maintained that, without the provision of veterinary facilities, and without the undertaking of public works toward the better distribution of the water, the reserve is now so full that the annual death rate cannot be less than the annual increase, or in other words, that the amount of stock owned by the Masai is now stationary."[26]

Recently the Kenya government has acquired boring plants and, with the advice of a water engineer from South Africa, it hopes to improve the stock-carrying capacity of the reserve. While Governor, General Northey promised the Masai a large strip of territory in the country of the Mau, on the belief, which was apparently mistaken, that this territory had been included in the Masai agreement. But despite the fact that this country is remarkably fine wheat country, the government, over the protests of various settlers, included it in the Masai reserve last year. The actual capacity of the reserve will not be known until the boring experiments have been completed, and this new land developed.

In passing judgment upon the Masai history, one must remember that the Masai people had no fixed conception of property, and that they were not agriculturists, but rather aimless and wandering pastoralists, owning economically worthless but continually increasing cattle. Their military

[25] Sandford, *cited*, p. 36. [26] *Ibid.*, p. 110.

organization was a constant menace to other natives, while their warrior villages were a corrupting influence inside of the tribe. Their case is therefore altogether difficult from that of the Kikuyu who were settled farmers, who had property conceptions approaching those of Europeans, and who, in fact, had actually purchased their land from the Wandorobo. It is only by becoming accustomed to a settled existence that the Masai will be able to learn to improve the quality of their cattle.

The Kenya Government has made strenuous efforts to improve the life of the Masai community. It has adopted the policy of gradually breaking up the warrior villages which have proved to be centers of sloth and immorality, and of transfering the power of the tribe to councils of elders. These attempts have resulted in frequent outbreaks which have led to a recent investigation by a committee of the Legislative Council. The Masai are frequently offenders in cattle stealing and raids which the government has occasionally punished by the imposition of collective fines. The administration has established a Masai school at Ngong and Narok which is attempting to give Masai youths a technical and veterinary education. At Narok the Masai have been taught with great success how to prepare ghee. The administration is also attempting to improve sources of water supply. It appears that so far the Kenya Government has done more for the Masai under its jurisdiction than has the Tanganyika Administration.

6. *The Reserve Policy*

Strangely enough, the government did not attempt to gain the consent of the other tribes in alienating their lands as it did in the case of the Masai. Nevertheless, the early administration did realize the necessity of making provision for the natives; and after some discussion, it was finally decided to follow the policy of native reserves. This idea, which was apparently first considered in connection with the Masai move of 1904, was discussed by the Delamere Land Board of 1905. This board declared itself in favor of a policy of having a few reserves, large in extent, and far removed from centers of European population, instead of more numerous and smaller reserves, as some people advocated, scattered up and down the country. The Board shrewdly pointed out what has now begun to happen; namely, that "Should the main body of the tribe living within the reserve increase and overflow its boundaries, such overflow would be available to meet the demands of the general labour market of the country." [27]

The Board believed that as far as possible reserves should be marked

[27] Cf. Vol. I, p. 300.

out before the country was opened to white settlement. It declared: "Everyone is of one opinion in agreeing that once the Government has given its word to the native in fixing a reserve that the reserve so fixed should be absolutely inviolable. It therefore becomes of all the more importance that the greatest care and forethought should be taken to prevent any subsequent interference with an area which has once been fixed by the Government as a reserve."

It did not believe that the government should recognize any native rights in the land inasmuch as the agricultural natives lay "claim to no more than a right of occupation." The government was the owner of all land not held under title, whether occupied or not, and the only restriction upon the exercise of its rights over the land was that should the government "for any cause remove or consent to the removal of natives from any particular area or district it would remain an obligation of the first importance" on it "to see that the natives so removed obtained an equivalent area for their maintenance elsewhere." [28]

Acting upon this theory, the government proceeded to alienate land, particularly in the Kikuyu area, which the natives claimed as their own, and paid compensation only to the actual occupiers for land at the moment under cultivation. In the meanwhile, it proceeded to delimit reserves, the first two of which were the Masai reserves, and the third of which was the Nandi reserve.[29] In 1907, 1910, and 1912 the government *Gazette* published descriptions of boundaries of certain reserves.[30] The proposed Crown Lands Bill of 1908 (article 85) authorized the Governor to reserve land which in his opinion was required for the use or support of the members of the aboriginal native tribes. But he could cancel such reservations if he thought the land was not thus required. He was also authorized to appoint trustees to watch over land "dedicated" to native tribes. Despite the fact that this bill did not become law, the government proceeded to carry out the reserve principle, until the passage of the Crown Lands Ordinance of 1915. While the ordinance empowers the Governor to alienate Crown land, including land occupied by natives, it lays upon him the duty of reserving from alienation any "Crown Land which in his opinion is required for the use or support of the members of the native tribes of the Protectorate." [31] Such reserves shall be published in the *Gazette*.

[28] *Report, cited.*

[29] The *Gazette, cited,* 1907, p. 287, says, "The following boundaries of the Nandi Reserve as accepted by the chiefs of the tribe at the close of the punitive operations in 1906 are published."

[30] *Ibid.,* 1907, p. 348; *ibid.,* 1910, p. 298; *ibid.,* 1912, p. 1010.

[31] Such reservation shall not confer upon any tribe or member of any tribe any right to alienate such land.

But the Governor if satisfied that the whole or any part of such land "is not required for the use and support" of the natives may cancel the reserve, whereupon it may be sold. But he can take no action cancelling a reserve "unless the approval of the Secretary of State shall have been first obtained." The ordinance omits the provision for the establishment of trust boards contemplated in the Land Bill of 1908.

7. *The European Opposition to Reserves*

It has been the attitude of many Europeans that the land reserved for the natives is much too large for their use, that the land is not being cultivated, and that it should therefore be taken away.

In 1913, a Native Labor Commission, appointed to discover new sources of labor, declared that while it did not have sufficient information to decide "whether the demarcated Reserves are too large, there seems to be a general opinion in the country that this is the case." The commission therefore recommended that (a) "the undemarcated Reserves be demarcated with a view to reserving sufficient land for the *present population only* . . . [my italics]; (b) if the Reserves already demarcated are found to contain land in excess of that required for the present population, these boundaries be revised in accordance with this principle."[32] In 1919, another Commission, composed of settlers, reported that the reserves should be thrown open for European settlement. "Interpenetration" should be permitted. What especially aroused the ire of this body was a statement of the Chief Native Commissioner that he did not see "why a native should turn out to work for Europeans if he wanted to develop his own land." The Commission declared that the reserves should no longer be considered as sacrosanct, since the "natives can only stagnate under a régime of universal peasant proprietorship." [33]

In 1919, a Land Settlement Commission, appointed to consider plans for the allocation of lands to ex-soldiers, recommended that land in the Kikuyu reserve, extending for ten miles on each side of the Uganda Railway, together with other lands, should be opened for alienation.[34]

In his address to the Legislative Council in 1919, Governor Northey declared, "No one wants to take away any land that natives occupy or are using productively, but we can say, in these days of productivity and

The Governor may exclude from lands reserved land which may be required for roads, railways, public buildings, trading centers, etc., or for any other public purpose, without paying compensation except for buildings and crops destroyed or damaged.

[32] *Report of the Native Labour Commission,* 1912-1913, Nairobi, p. 326.

[33] *Economic Commission, Final Report, Part* I, 1919, p. 19 .

[34] *Report of the Land Settlement Commission,* 1919, Nairobi, p. 5.

development, and world-wide shortage of food and raw materials, that Crown lands not made productive, may, by law, be made so as required." While he was opposed to alienating a ten-mile strip along the railway to settlers he said, "You can in future probably quite rightly, after survey and regulations and careful enquiry, say, here and there is a portion of the country above and beyond all that the Kikuyu have right to, or are using, making full allowance for commonage and grazing which at present is lying waste and unproductive; the government can take it for whatever development they like with a clear conscience before the whole world, and to the entire satisfaction of the natives who will know once and for all how they stand." [35]

In 1920, the Land Tenure Commission, composed of ten unofficial and four official members, was appointed to look into the operation of the Ordinance of 1915 and other land matters. Under the heading of "The principles to govern the delimitation of Native Reserves," it declared:

"It is not apparent what has been the principle in the past in determining the actual alignment of the boundaries of Native Reserves. Possibly it has been a mixture of administrative convenience at a time when white settlement was embryonic, and of actual native occupation, whether nomadic or permanent.

"It is clear, however, that the boundaries of native reserves should be clearly defined and adhered to on a just principle; and by our terms of reference, we are concerned with this principle of delimitation and the method of settlement. Briefly, we state this principle to be one which should be based on beneficial occupation and the needs of each tribe as they at present exist together with a sufficiency for the estimated increase in the next generation. . . .

"In considering the present needs of each tribe, we are faced with the problems of the increase of population, the waste of land owing to primitive methods of cultivation, large tracts of agricultural land being used for pastoral purposes, and the existence of large waterless areas. In view of the fact that the Reserves are limited, we consider that Government is committed to a policy of ensuring a better use of the land within the boundaries, and this policy we think should take the form of educating the natives to improved methods of intensive cultivation, by which means expansion can be provided for within the Reserves for many generations, once the boundaries have been established on the principle already referred to.

"With regard to agricultural land being used for grazing, we think that it would be impossible to convert the tribe from pastoral habits to agricultural habits in a short space of time, so that it becomes necessary to allow them to continue in occupation of the land. . . .

"To consider the most effective use of land, to improve the capabilities of

[35] *Proceedings of the Legislative Council,* first session, 1919, p. 2.

land by providing or increasing a water supply, and to define the present needs of the native, would properly be functions of a Native Trust.

"We consider, therefore, that a Native Land Trust should be established. This Trust should have considerable powers, and should administer the trust funds derived from the Reserves. . . . The Trust should have power to grant leases for land in Reserves to non-natives, without reference to the Secretary of State, the governing principle of such alienation being direct benefit to the native and the treatment of native produce, being designed to cover such purposes as posho mills and sugar factories. . . ."[36]

". . . In our opinion the time has now come when every scrap of land to which the agricultural development of the country could be extended should be earmarked and made available for future alienation."[37]

This proposal thus advocated the theory of beneficial occupation and the delimiting of land sufficient for the present and the next generation of natives. In the 1924 session of the Legislative Council, Lord Delamere declared, "All the land in the world had to be put to the best use and in the Kikuyu country they had one of the richest areas in the world, only one-third of which was being used owing to the system of cropping and fallowing which the natives followed. That was a matter that had to be gone into. By land taxation or by other means people in the world were being expected to use their land and the native had that responsibility as much as anyone else."[38] At the same meeting, Dr. Arthur, the missionary appointed to represent native interests, declared, as quoted in the *Minutes,* that "he was convinced there was nothing in the country that gave rise to unrest among the natives more than the insecurity of their land It was extraordinary that the country had existed all these years without trouble from the native peoples to any great extent. He knew it to be a fact that in the minds of the Kikuyu there was a constant uncertainty regarding their land. . . . So far as the Kikuyu country was concerned there was a great deal of hardship owing to the fact that the cattle had to be grazed in areas some distance from where the people resided, and in times of sickness and so far as their children were concerned they suffered from their inability to get milk."[39]

The encroachment of the government upon the lands of the Masai,

[36] The Secretary of State authorized short leases for such purposes, Despatch 1315, 1921.

[37] *Report of the Land Tenure Commission,* 1922, p. 2.

[38] The relation between cutting down the reserves and the labor supply is shown in Vol. I, p. 323.

[39] This discussion arose out of a statement of the Land Officer that the Government had agreed to exchange, without auction, large holdings of land on the coast owned by the East African Estates and other large corporations—for smaller areas in the Highlands. For the *Minutes,* see *East African Standard, Supplement,* September 20, 1924.

Kikuyu, Kamba, and Nandi peoples, the enactment of the Crown Lands Ordinance of 1915, which declared native lands to be Crown lands that the government could alienate if they were not used, the decisions declaring natives to be "tenants at will", the declarations of the Labor, Economic, Land Settlement, and Land Tenure Commissions all to the effect that impliedly at least, the reserves should be reduced, the failure of the government to gazette the reserves until 1926, all produced a widespread feeling of insecurity and unrest among the native people in Kenya, which was one of the causes of the Thuku movement discussed elsewhere.[40]

8. *Guarantees*

The first step in allaying this feeling of insecurity was taken by the government in October, 1926—nine years after the enactment of the Crown Lands Ordinance, when it finally proclaimed the twenty-three native reserves.[41] Thus gazetted, they may be alienated by the local government only after obtaining the prior consent of the Secretary of State.

Meanwhile, the natives have learned to put their trust in judicial rather than executive guarantees. They have demanded some form of collective title for the reserve which the courts will enforce against administrative encroachments.

The district commissioners, in a meeting at Fort Hall, declared that some documentary evidence should be given the Kikuyu people that they owned their land; which "will help to restore a feeling of security," which is of "urgent necessity" and "of more value than any temporary financial benefits which might accrue from the leasing of native land against the native's consent." The different native associations presented vigorous petitions to the East Africa Commission making the same demand.

In an effort to meet these demands, the Governor, Sir Robert Coryndon, proposed that land boards composed of officials and native representatives should be established in each reserve. The Governor should be allowed to lease lands within the reserves to Europeans with the consent of these boards and subject to the consent of the Secretary of State. The East Africa Commission declared, however, that such proposals "would not completely allay the feeling of insecurity which now exists." The Commission proposed that either an ordinance or Order in Council should be enacted,

[40] Cf. Vol. I, p. 374.

[41] The Nyika reserve was gazetted in 1916. In 1926 the boundaries of twenty-four reserves were definitely published. *Gazette, cited,* October 13, 1926, pp. 1195-1238.

During the preceding six years, the government had provisionally published boundaries for criticism. Cf. the proposed boundaries of the Masai reserve, *ibid.,* 1920, p. 533.

defining the status of native lands. It recommended the establishment of a trust board in which title to all such lands should be vested. It did not agree that alienations of lands in the reserves should be allowed; but certain leases should be authorized.

It is doubtful whether these trust boards will give the natives as secure a protection as the simple declaration of the Secretary of State that it is not the policy of the government to alienate land in the reserves except for trading sites. There is a danger that by gaining control of these trust boards through direct or indirect means, settlers may persuade the Secretary of State to give his consent to the alienation of land in the reserve which he would otherwise oppose. There is little doubt but that this pressure to cut into existing reserves will be exerted in the future as it has been in the past.

9. *The Adequacy of the Reserves*

Since the Europeans entered Kenya following a period of epidemics and inter-tribal wars which had greatly reduced native populations, the land which the tribes occupied was much smaller than the land which they would have occupied if these epidemics had not occurred, and which they would have occupied later had not the Europeans entered the territory. Nevertheless, the Kenya reserves to-day are for the most part based on the land occupied by the natives at the time the Europeans entered. At the same time, it must be remembered that the native population will increase in the future, and that while in Uganda and in Tanganyika the native may gradually expand the area of the land which he uses in proportion to this increase, the native in Kenya may not do this, being limited to the reserves.

The Kenya reserves as compared with those of South Africa and Rhodesia are as follows:

NATIVE RESERVES

In Union of South Africa, Southern Rhodesia and Kenya

Territory	Reserves (Sq. Miles)	Total Native Population	Density per Sq. Mile	Acres per Native Inhabitant
South Africa	43,611	4,953,743	113.7	5.6
South Rhodesia	33,742	862,319	25.5	25.0
Kenya, exclusive of Masai Reserve	32,237	2,517,983	78.0	8.2
Kenya including Masai Reserve	46,837	2,560,983	54.7	11.7

Exclusive of the immense Masai reserve which is inhabited by only forty-three thousand people, the Kenya reserves contain 8.2 acres per in-

habitant in comparison with 5.6 acres in South Africa. While the Kenya Government has set aside some of the best land in the country in the Kikuyu and Kavirondo reserves, the actual amount of cultivable ground is much less than 8.2 acres per capita because perhaps a quarter of the area of the Kenya reserves consists of mountains, water and arid regions unsuitable for cultivation. If the population of Kenya increases as a result of improved medical facilities, it will probably be a matter of only twenty-five years when the Kenya native will experience the land shortage which the native of South Africa is experiencing to-day. Many natives will therefore be obliged to take up their residence outside of the reserves.

The value of the commercial exports of the reserves now barely equals the native taxes. In order to pay these taxes and to buy the necessities of life, it appears that most native men must supplement their earnings in the reserves by wages obtained outside.[42]

The reserves set aside for the Kikuyu and Kavirondo people, which contain the majority of the native population, are also over-populated. A District Commissioner testified in 1919 that the density of population in Kikuyu reserve land between Nairobi and Limoru was about four hundred to the square mile, and that the population was increasing there. "This density of population is from five to seven times as great as in the South African Reserves where they are increasing the native holdings. . . ." [43] In the Nyeri and Fort Hall reserves, the population density is about two hundred and twelve per square mile; in the Central Kavirondo reserve it is about one hundred and sixty-five; in the Bunyoro section of north Kavirondo, it reaches eleven hundred.[44] These density figures exceed those of many South African reserves.[45]

The Native Affairs Department is of the opinion that the Lumbwa and Nandi reserves are already over-populated; that the Akamba reserve is largely waterless; and that the Eldama Ravine, Kabarnet, Marakwet, Elgeyo and Suk reserves are already inadequate for the present needs of the population.[46]

[42] Cf. Vol. I, p. 393.

[43] *Report of the Land Settlement Commission,* 1919, p. 12.

[44] Cf. the population density figures in *The East African Red Book* for 1925-1926, p. 87.

[45] Cf. Vol. I, p. 77.

[46] In a speech at Falmouth, England, in 1927, Sir Edward Grigg, Governor of Kenya, is reported as follows: "If the native had not sufficient land to cultivate he would then be subject to indirect compulsion and as his numbers increased compulsion of course would grow. The first principle of policy therefore was to make native reserves of sufficient area to provide for the natural development of each tribe and to secure them for ever to the natives in the firmest possible way. This had been done in Kenya and the native reserves had been delimited. He believed them to be ample in area for future native needs. . . ." *East African Standard,* April 30, 1927, p. 16 B.

The general land situation in Kenya in 1925 was as follows:

Land Situation in Kenya—1925

	Square Miles
Turkana and Northern Frontier Province[1]	102,595
Total Area of Native Reserves excluding Turkana and N. F. P.	47,031
Total Land alienated or available for alienation to Europeans	11,859
Forest Reserves	2,980
Balance of land[2]	39,772
Total area of Colony and Protectorate (less Jubaland)	204,237

[1] Most of this area is uninhabitable.
[2] Includes freehold land in Protectorate, forests not included in Forest Reserves, Game Reserves and Waterless Lands.

In the Highland area 3,258 square miles are in European occupation while 7,654 square miles are in native occupation. In the Lowlands and Coast the Europeans and Asiatics occupy 272 square miles.

At the present time, the average European farmer occupies about five hundred acres of land in comparison with the eight acres held by the average native. He justifies this discrimination on the ground that he, the European, makes use of his land, while the native does not. But the census returns, quoted above, show that the European in Kenya to-day has only nine per cent of occupied land under cultivation. Settlers and some officials have asserted that if the native does not put his land to better use it should be taken away and given to the white man. But in view of the over-crowding of the reserves and communal land tenure, it is very difficult for one native to improve his land because of cross-fertilization and the encroachment of his neighbor's cattle. It is now impossible for a native to obtain an individual title to land within the reserve, and practically impossible for him to fence land to keep his neighbor's cattle out. Likewise, it is difficult for him to improve his agricultural methods when he spends half of the year outside of the reserves at work on European farms. On the other hand, even if a native has the wherewithal, he finds it impossible to purchase land outside the reserve from the government which restricts the sale of Crown land to Europeans, or to purchase land from a settler, inasmuch as the governor has the power to veto transfer of land from one race to another. Under the circumstances, it is doubtful whether, especially in view of the increased population which an improved medical service should bring about, improved agriculture in the reserves will relieve the land problem.

Despite the fact that the reserves are inadequate, it does not appear that

It is evident that the Governor has been seriously misinformed as to the adequacy of the Kenya reserves.

the government has any intention of increasing them.[47] European settlers are urging that all available Crown land should be alienated immediately in order to forestall such increases—a demand which the government has partially, at least, accepted. Both in Rhodesia and in South Africa, the native may purchase land outside of the reserves; but in Kenya this is impossible under the present system of land administration. If Kenya does not wish to gain the reputation of being more illiberal in her land policy than South Africa, she should make it possible for natives, whether individually or through their native councils, to purchase land in certain outside areas.[48]

10. *Squatters*

Thus the native population of Kenya is confined to reserves occupying about fifty thousand square miles. A native family cannot, moreover, move out of the reserve on to unalienated Crown land. Under the Native Authority Ordinance, 1910,[49] a district official, when satisfied that any native, a member of a tribe or community for whose occupation land has been reserved, is cultivating or occupying unalienated Crown land outside the lands so reserved, may order such native to move back into the reserves. Such orders are now rigidly given, inasmuch as natives in Crown land frequently steal stock and escape European control.

Of more importance, in view of the fact that most of the desirable Crown land is alienated, is the position of natives living on European farms. Because of the impossibility of cultivating all of their holdings, Kenya farmers, like their brothers in South Africa and Rhodesia, at one time allowed natives to squat on the land upon a crop share or cash-rent basis. This practice, called "Kafir farming," was condemned by the Native Labor Commission in 1913, as being wrong in principle and detrimental to the labor supply.[50]

Acting upon the Commission's recommendations, the government passed the Resident Natives Ordinance [51] in 1918, the preamble of which declared that "it is desirable to encourage resident native labour on farms and to take measures for the regulation of the squatting or living of natives in

[47] Under the Crown Land (Amendment) October 1926, the Governor in Council may, however, by notice in the *Gazette* declare that any area of Crown land shall be included in the native reserves.

[48] Cf. Vol. I, p. 82. [49] *Ordinances,* 1910, p. 96, sec. 10. [50] *Report, cited,* p. 328.

[51] *Ordinances,* 1918, p. 47. The High Court held that a squatter was not a servant under the Master and Servants Ordinance, but a "tenant," and consequently the anti-desertion provisions of the latter ordinance could not be applied. The legislative council thereupon amended the Masters and Servants Ordinance so as to make squatters "servants." (No. 7 of 1924). But the Colonial Office disallowed this ordinance, so the act of 1918 was temporarily revived. *Gazette, cited,* 1924, pp. 776, 909. But the same end was later accomplished by a new Resident Labor Ordinance, No. 5 of 1925.

places other than those appointed for them by the Government. . . ." If a native wishes to live outside of the reserves he must make an agreement with the European owner concerned, which cannot be for less than one year nor for more than three.[52] These agreements must be attested by a magistrate or some other official named by the government, who may limit the number of families resident on farms "having due regard to labour requirements." These agreements provide that the head of the family and all male members over the age of sixteen shall work one hundred and eighty days out of the year for the owner, for which they shall be paid at a rate agreed upon in the presence of a magistrate. In return, a native may live upon the white farm with his family and use the soil for his own needs. He may also be allowed to graze his cattle on the land. Each employer or owner must keep a register of squatters and cattle which shall indicate the rent received from the native squatter, and which shall be open to government inspection. Kafir farming is prohibited. A magistrate may, if it appears to him that there is no longer a necessity for the number of families on the farm, revoke the permit.

Thus the Kenya squatter's legislation exceeds in severity the law in South Africa. It seems less liberal from the native standpoint than squatter's legislation in Rhodesia, where a farmer may receive either rent or labor from a squatter, and in Nyasaland, where the farmer is forbidden to receive labor.[53] Under any system which requires a native and all the male members of his family over the age of sixteen to work at least half of the year for a European farmer in return for the right to use land, a feudal system involving elements of involuntary servitude is likely to develop, particularly when, because of their overcrowded condition, natives cannot find land in the reserves upon which to live. In view of the fact that attesting officers may decline to approve an agreement where the pay for squatter labor appears inadequate, the possibility of abuse of this kind is in theory removed. But since it is the policy of the government to appoint European farmers as attesting officers,[54] this safeguard does not appear to be adequate.

At the present time, Kenya farmers are making great efforts to persuade as many natives as possible to leave the reserves and take up their residence upon European farms, thus giving them a permanent in contrast

[52] In the Legislative Council, Lord Delamere said he did not believe the natives wanted to leave the European farms. They wanted security of tenure, a twenty years' term rather than a short three years' period. The Chief Native Commissioner, however, declared that the Secretary of State for Colonies was opposed to a period longer than three years. For *Minutes,* cf. *East African Standard, Supplement,* April 18, 1925.

[53] This provision has not been enforced. Cf. Vol. I, p. 249.

[54] Cf. *Gazette, cited,* August 25, 1926, p. 975.

to a transient labor supply. Because of the crowded conditions in some areas, these efforts have been successful. The Native Affairs Department says, "The migration from the Kikuyu Reserve to farms still continues." [55]

In an effort to increase the workability of the squatter system the Convention of Associations at the annual meeting in November, 1926, passed a resolution asking that the law be altered so that the minimum number of days which a squatter must work should be increased from one hundred and eighty to two hundred and seventy days. In other words, instead of working six months he should work nine months for the European farmer out of every year. The mover of the resolution said that "the primary idea was to increase the labour supply of the country." [56]

In his report of 1925, the Director of Agriculture declared that not "until there is permanently resident in the alienated areas a large number of native laborers with their families freely to engage their services by their own volition, will the labor needs of European holdings be satisfactorily met." [57]

Advantageous as the system may be to the European, it presents certain drawbacks. Natives may bring their stock with them, which encroach upon grazing land wanted for European cattle, and squatters have been accused of stealing European cattle, especially when living out in distant portions of European farms. In 1926, a committee of the Legislative Council presented a long report on this subject, and said that part of the trouble was due to the fact that the Squatters' Registers were bodly kept or not kept at all. In the absence of such control, it appears that a large number of natives still illegally occupy European soil. The committee asked that a special staff be provided for the enforcement of the Resident Native Ordinance and that the burden of proof as to whether or not certain meat had been stolen should rest with the person in whose possession it was found—a curious departure from English conceptions of law.[58]

As a result of this squatter legislation and the inadequacy of the reserves, many natives in the future will be literally compelled to take up residence on European farms upon conditions which the owners prescribe.

This form of compulsion, more humane than the former Portuguese system where natives were directly obliged by the government to work for private employers [59] will probably prove more effective than the Portuguese system in the long run; although the native population of Kenya has

[55] *Native Affairs Department, Annual Report,* 1924, p. 50.
[56] *East African Standard, Special Supplement,* November 6, 1926.
[57] *East African Standard,* July 6, 1926.
[58] For the report, cf. *East African Standard,* May 15, 1926.
[59] Cf. Vol. I, p. 31.

hitherto been so limited that this indirect process has not yet entirely produced the labor supply which Europeans demand. Consequently, other methods of securing labor have been tried which will be discussed in the next chapter.

CHAPTER 21

KENYA'S LABOR PROBLEM

OTHER chapters have pointed out that white farmers in Africa rely upon native labor, and Kenya is no exception to the rule. Because of this factor, and the nature of crops which require relatively large investments, the prospective settler in Kenya is generally warned to furnish himself with capital amounting to at least five thousand pounds. Settlers having such a sum usually have a standard of living and an attitude toward manual labor different from that which ordinarily prevails in a frontier community. But the number of settlers in Kenya does not depend so much upon any requirement of capital as upon the supply of native labor.

1. *History of the Labor Question*

From the very beginning, European enterprise has found difficulty in getting the natives to enter employment.

In 1899, an official report stated that "the idea of organised labour is utterly foreign to most of the tribesmen. . . . The native has a strong home instinct, and dislikes work at any distance from his own district." [1]

In 1903, another report declared that "the African is attached to his home and dislikes leaving it." It further stated that "the question as to whether natives would willingly undertake service for long periods in a distant country is not difficult to answer, and the reply would be in the negative. . . ." It went on to say: "As has been shown, the Kavirondo and the Kikuyu dislike to leave their homes even for a month and will do no outside work at all during the season of cultivation." [2]

It was only after 1903 that European settlers began to arrive in large numbers. And in a few years, particularly in 1907 and 1908, labor difficulties became acute, despite the fact that the British Administration assisted the settlers in procuring their labor.[3]

[1] *Report of the Uganda Railway,* C. 9331, *cited,* p. 20.

[2] These observations were, however, directed to the question of whether or not East African laborers should be recruited for the South African Mines. The report stated that the agricultural and industrial enterprises which would enter East Africa could be supported by local labor. *Report on Slavery and Free Labor in the British East Africa Protectorate,* Cd. 1631 (1903), pp. 5, 8.

[3] In the five months during 1907-8, the government received applications from settlers for 1346 men, of whom six hundred and ninety-six were supplied. Statement of the Governor, *Affairs in the East Africa Protectorate,* Cd. 4122 (1908) p. 21.

In 1907, however, the government was not satisfied that the settlers were treating their laborers as they should. Consequently, it published a notice in the *Gazette* [4] which said that "Officers of the Administration and Native Affairs will do their best to supply labourers for settlers, planters, contractors, and others," provided that they treat their labor in accordance with the principles laid down in the notice.[5]

But the restrictions were too severe for the settlers who held a mass meeting on March 23, 1908, and demanded the immediate withdrawal of the Labor Rules. In the afternoon, they marched up to Government House and asked the Governor, Sir James Sadler, for an immediate reply. When the Governor said he could not give a reply until the next day, the settlers, who led the crowd, went away shouting, "Resign, resign!" This was "so serious and so gross an insult" that the Governor suspended Lord Delamere and another member from the Legislative Council.[6] At that time, the Governor declared that Lord Delamere shouted "resign," but it is understood that later evidence showed that this was not the case.

Following this incident, the Governor agreed to hold a conference with the settlers, then organized into a Colonist Association. Just before the meeting, the Secretary of the Association wrote that "it is grossly unfair to invite the settler to this country, as has been done, to give him land under conditions which force him to work, and at the same time to do away with the foundation on which the whole of his enterprise and hope is based, namely, cheap labor, whilst the native is allowed to retain large tracts of land on which he can remain in idleness. . . ."

At the conference, a number of settlers demanded compulsion; and Lord Delamere said, among other things, "If officials go into Kikuyu country and tell the natives that they have no obligation to work, they interpret it as the wish of the Government that they are not to do so. . . . We have got to come to legalised methods and force the native to work; I hope that we may rely on the Government to meet the case. . . ." [7]

The conference thereupon adopted a resolution asking that the Labor Rules should be withdrawn, and that "all Government Officers be directed, and be strictly required to encourage the native to seek labour, and to do

[4] *Gazette, cited,* 1907, p. 478. Cf. also Cd. 4122, *cited,* p. 28.

[5] These principles provided that the employer should erect suitable huts and provide for each laborer one good blanket free of charge, and a ration of two pounds of rice or other grain, or two pounds of flour or beans every day, and two pounds of sweet potatoes twice a week. He should detail one man out of every fifty to cook. He should keep an adequate supply of medicines at each camp, and arrange to have water boiled when unfit for drinking. He should furnish food for men going to and returning from their homes to the place of employment. The government would fix the rate of wages.

[6] Cd. 4122, pp. 1-2.

[7] *Ibid.,* pp. 4, 16.

their utmost to assist those who require it in acquiring the same." While the Governor declined to withdraw the rules, he agreed to issue a further circular in regard to the "encouragement" of labor.[8]

Following this incident, the Secretary of State for the Colonies issued instructions to stop the practice of government recruiting of labor for the farm population.[9] Nevertheless, it appears that administrative officers and chiefs continued to procure, whether directly or indirectly, labor for settlers. Many native witnesses testified before a commission appointed to study the shortage of labor in 1912, that their chiefs forced them to go out and work; while others said that administrative officials exerted some form of pressure.[10]

2. *Taxation and Labor*

Some settlers and officials have believed that natives could and should be induced by means of taxation to seek European employment.

One Governor, Sir Percy Girouard, is reported to say: "We consider that taxation is the only possible method of compelling the native to leave his reserve for the purpose of seeking work. Only in this way can the cost of living be increased for the native, and as we have previously pointed out, it is on this that the supply of labour and the price of labour depends." [11]

A large number of witnesses before the Labor Commission of 1913 believed that native taxes should be raised to increase the labor supply.[12] In 1922, one farmers' association passed a resolution stating that taxes should be collected during the coffee picking season so as to induce natives to go out and work. More recently, another farmers' association urged the government to increase the poll tax to relieve the acute labor shortage, and to remit this tax if the native worked a certain period of time for a European.

[8] The Governor later reinstated Delamere on the Legislative Council, on the ground that "he has done more for East Africa in developing his large estates than anyone else." *Gazette, cited,* 1909, p. 80.

[9] *Report of the Native Labour Commission,* 1912-1913, p. 320. In 1908, the government established advisory labor boards composed of officials and settlers. *Gazette, cited,* 1908, p. 398.

[10] Cf. *Report, cited,* pp. 155, 158-162, 184. The Labor Commission reported that "on the one hand, there is the officer who uses every form of persuasion with the native to induce him to go to work, and on the other, the officer who, so far from stimulating efforts of industry either in or out of the Reserves, gives the natives to understand that the Government is indifferent or opposed to natives leaving their Reserves." *Ibid.,* p. 323.

[11] *East Africa Standard,* February 8, 1913, quoted by Leys, *Kenya, cited,* p. 186.

[12] The Labor Commission declared, however, that "To increase taxation, whether a remission of the tax be granted or not on proof of work done, with a view to increasing the supply of labour, is unjustifiable." *Report, cited,* p. 329. For the same opinion of the Governor of Tanganyika, cf. Vol. I, p. 510.

In contrast to perhaps the majority of natives in Uganda and Tanganyika, few natives in Kenya can earn enough money in the reserves to pay their taxes. The total commercial agricultural production of non-Europeans in Kenya amounted in 1924 to about 546,000 pounds,[13] in contrast to 876,000 pounds collected in native taxes of which 516,000 pounds came from the hut and poll tax and about 250,000 from customs. Merely to pay the difference between this sum and the value of native exports, natives must seek European employment until they collectively have earned 320,000 pounds. In order to earn money for cloth and other necessities, they must prolong the period of employment.

3. *The Northey Circulars*

It appears that government aid in regard to labor continued to be given up to and during the World War. In 1917, the Governor, Sir H. Conway Belfield, stated in the Legislative Council:

"It cannot be too well and too widely known that it is the declared policy of the Government to give the fullest encouragement to settlers and natives alike to arrange for the introduction and maintenance on farms of a supply of labour sufficient to meet the varying requirements of different proprietors. If any impression still exists that the legitimate requirements of the farmers are to be subordinated to the policy of confining the native to his reserve, I trust that these words may be sufficient to dispel that impression once and for all. . . . I am prepared to state definitely that we desire to make of the native a useful citizen and that we consider the best means of doing so is to induce him to work for a period of his life for the European. . . . We further desire, by humane and properly regulated pressure within the reserves, to induce natives to go out and work either as individuals or as residents with their families on occupied farms."

Resident magistrates will "satisfy themselves regarding the extent of labour requirements," while the native commissioners "should be authorized to take such steps as may be justifiable to insure that all tribal districts and villages contribute according to their respective capacities to the output of enough labour."[14] In the same session, the Chief Secretary declared that at the time of the Labor Commission hearings in 1913, there was a general feeling that the government was not doing enough to induce natives to come out of the reserves. But now, possibly owing to increased activities on the part of district commissioners, the natives had been "induced to work to an extent that they had never done before."[15] In 1919, a new

[13] *Agricultural Census,* 1925, p. 24.
[14] *Proceedings of the Legislative Council,* first session, 1917, p. 3.
[15] *Ibid.,* pp. 1, 10.

Governor, General Northey, also asked the Legislative Council: "Is it our duty to allow these natives to remain in uneducated and unproductive idleness in their so-called Reserves?" He answered his own question: "I think not. I believe that our duty is to encourage the energies of all communities to produce from these rich lands the raw products and foodstuffs that the world at large, and the British Empire in particular, require. This can only be done by encouragement of the thousands of able-bodied natives to work with the European settler for the cultivation of the land. . . . I believe there is a great future for this country, but only if a steady flow of natives out of the Reserves, working willingly for a good wage, well housed and fed, under European control and supervision, can be properly organized." [16]

Meanwhile, the ex-soldier settlers who had been given farms [17] entered the country, and the labor problem became more acute than ever. In a communication to the Convention of Associations (October 21, 1919), Governor Northey declared: "The white man must be paramount. . . . For the good of the country and for his own welfare he [the native] must be brought out to work. . . . Our policy, then, I believe, should be to encourage voluntary work in the first place but to provide power by legislation to prevent idleness."

Two days later, a labor circular was issued, over the name of the Chief Native Commissioner, as follows:

"1. There appears to be still a considerable shortage of labour in certain areas due to reluctance of the tribesmen to come out into the labour field; as it is the wish of Government that they should do so, His Excellency desires once again to bring the matter to the notice of Provincial and District Commissioners, and at the same time to state that he sincerely hopes that by an insistent advocacy of the Government's wishes in this connection an increasing supply of labour will result.

"2. His Excellency trusts that those officers who are in charge of what is termed labour supplying districts are doing what they can to induce an augmentation of the supply of labour for the various farms and plantations in the Protectorate, and he feels assured that all officers will agree with him that the larger and more continuous the flow of labour is from the Reserves, the more satisfactory will be the relations as between the native people and the settlers and between the latter and the Government.

"3. The necessity for an increased supply of labour cannot be brought too frequently before the various native authorities, nor can they be too often reminded that it is in their own interests to see that their young men become wage-earners and do not remain idle for the greater part of the year. . . .

[16] *Proceedings of the Legislative Council,* first session, 1919, p. 2.
[17] Cf. Vol. I, p. 304.

"4. In continuation of previous communications on this very important subject, His Excellency desires to reiterate certain of his wishes and to add further instructions as follows:

"(1) All Government officials in charge of native areas must exercise every possible lawful influence to induce able-bodied male natives to go into the labour field. Where farms are situated in the vicinity of a native area, women and children should be encouraged to go out for such labour as they can perform.

"(2) Native Chiefs and Elders must at all times render all possible lawful assistance on the foregoing lines. They should be repeatedly reminded that it is part of their duty to advise and encourage all unemployed young men in the areas under their jurisdiction to go out and work on plantations. . . ."[18]

. . . . . .

"7. Should the labour difficulties continue it may be necessary to bring in other and special measures to meet the case. . . ."

Various district commissioners now went to work with a vengeance. At Kyambu, the local official issued a circular stating that he intended to arrange for a "temporary supply of child labour from the reserves" to pick the coffee crop; and saying: "I shall be glad if any coffee growers who may like to employ these children will write his name hereon, stating the number required, the time for which they may be most needed." [*sic.*]

The labour circular of 1919 was brought to the attention of the English public by a so-called Bishops' Memorandum, signed by leading missionaries in East Africa, protesting against this policy on the ground that it was really compulsory labor for private purposes. To the native mind, "A hint and an order on the part of the Government are indistinguishable," especially when the government calls for "insistent advocacy." When the chiefs are charged with the business of recruiting labour, "the door is flung wide open to almost any abuse." Moreover, the native was not idle while in his reserve. "To leave his own plantation, perhaps at a critical time, for the benefit of some one else's plantation; to leave his house unthatched, his corps unreaped, his wife unguarded perhaps for months at a time, in return for cash which he does not want on the 'advice' of his chief—which he dare not disregard—is not a prospect calculated to inspire loyalty to the government from whom the advice emanates. . . ." Nevertheless, the Bishops' Memorandum went so far as to say: "Compulsory labour is not in itself an evil, and we would favour some form of compulsion when necessary, at any rate for work of national importance," but it should be definitely legalized, and confined to able-bodied men. Even so,

[18] Moreover, they should keep a record of those Chiefs and Headmen "who are helpful and of those who are not helpful."

"any form of compulsory service is certain to be intensely unpopular with the native. There is no more fruitful source of native discontent in any country than the Corvée. . . ." [19]

A stir was caused in England by the publication of these documents, and such bodies as the Conference of Missionary Societies in Great Britain and Ireland and the Anti-Slavery and Aborigines Protection Society took the matter up with the government. The former body wrote to Lord Milner, the Secretary of State for Colonies, expressing their "unqualified opposition to compulsory labour for private profit" which they believed to be "morally wrong and fundamentally at variance with Christian conceptions of life and duty."

At this criticism, the Kenya Government issued a further circular, on July 14, 1920, toning down the original memorandum, and telling the administrative officials to see to it that chiefs did not abuse their authority. A debate on the Kenya labor policy took place in the House of Lords on July 14, 1920,[20] following which the Colonial Office sent a despatch to the Kenya Government asserting that His Majesty aimed "at the advancement and well-being of the native races in the Protectorate no less than the meeting of the settlers' requirements." After calling attention to the explanatory circular of the Kenya Government stating what was meant by pressure, Lord Milner declared: "I trust that it will now be clear to all that there is no question of force or compulsion, but only of encouragement and advice through the native Chiefs and Headmen. . . . On the other hand . . . it is desirable that the young able bodied men should become wage earners and should not remain idle in the Reserves. . . . In my opinion, the Protectorate Government would be failing in its duty if it did not use all lawful and reasonable means to encourage the supply of labour for the settlers who have embarked on enterprises calculated to assist not only the Protectorate itself, but also this country and other parts of the Empire by the production of raw materials which are in urgent demand." [21]

As this despatch was really a vindication of the original memorandum, it did not satisfy British opinion. After further pressure, the Colonial Office gave way, and issued a White Paper which said: "The principle that Administrative Officers and Native Chiefs should take every opportunity of inculcating among the natives habits of industry either inside or outside the Reserves is obviously right, and not open to criticism. But beyond taking steps to place at the disposal of natives any information which they may possess as to where labour is required, and at the disposal of employers any information which they may possess as to where sources of

[19] Published in *Despatch on Native Labour,* Cmd. 873 (1920), p. 8.
[20] *House of Lords Debates,* July 14, 1920, Vol. 41, cols. 124 ff.
[21] *Despatch on Native Labour,* Cmd. 873, *cited,* p. 4.

labour are available for voluntary recruitment, the Government officials will in future take no part in recruiting labour for private employment. . . ." [22]

4. *The Attack Against "Neutrality"*

During the next four or five years, the administrative officials in Kenya—who have native welfare as much at heart as any other set of officials in Africa—followed a policy of complete neutrality in regard to the recruiting of labor for private employment. Some of the settlers, deprived of their former assistance, now made a series of accusations, charging that officials were actually discouraging the natives from going out to work.[23]

In the meantime, settlers continued to complain about, and government commissions continued to point out the existence of, a labor shortage. A commission was appointed in 1921 to study the advisability of establishing some form of labor bureau similar to those found in Southern Rhodesia or elsewhere. While it reported against the establishment of such a bureau on account of the expense, it nevertheless believed that there would be an annual shortage of labor amounting to thirty-two thousand by 1926.[24] In 1925, the Economic and Finance Committee likewise studied the labor question. In its report, it thought it necessary to sound a "note of warning to employers that development [in the coffee industry] must largely depend upon labour supply." [25]

[22] *Despatch Relating to Native Labour,* Cmd. 1509 (1921). The full text is printed in the Appendix to the section.

Nevertheless, at the 1920 session of the Legislative Council, the Acting Governor said: "The labour circular has been grossly misinterpreted by those who allege that it prescribes a system of forced labour. It is merely the publication in a new form of the instructions which have been issued from time to time to District Commissioners for years past, by successive Governors." . . . This policy "has the object of preventing the inevitable deterioration of the native races which would occur if Government were tacitly to acquiesce in their remaining in their Reserves, safe from prosecution by their former enemies, in a state of idleness and apathy . . . It is surely incumbent on us to exercise every endeavour to teach the native how the surplus population in the Reserves can best be employed both for their own material welfare and in the economic development of the Protectorate." If "persuasive measures" fail, the Governor thought they should "take legal powers to prevent the native from remaining idle. . . ." *Minutes of the Legislative Council,* second session, 1920, p. 7.

[23] Cf. the remarks of Mr. Harvey on a motion asking that a Select Committee be appointed to investigate alleged interference with the free flow of voluntary labor in the Nyanza Province. Legislative Council Debates, 1925, as quoted in the *East African Standard* for April 25, 1925. It appeared from this discussion that the chiefs now refused to furnish men for recruiters as they had formerly done. This, according to Mr. Harvey, was obstructing the "free" flow of "voluntary" labor. The committee, upon investigating the matter, could find nothing to justify the charge, nor could the East Africa Commission, *Report, cited,* p. 166.

[24] *Report of the Labour Bureau Commission,* Nairobi, 1921, p. 13.

[25] *Interim Report of the Economic and Finance Committee on Native Labour,* Nairobi, 1925, p. 3.

The report of the Native Affairs Department in 1924 declared that "a very acute shortage occurred during the latter part of the year, especially in the coffee districts, and the completion of Uasin Gishu Railway, which last year obtained without much difficulty more than twice the number of men required this year, was seriously delayed by lack of labour." [26] The Principal Labor Inspector also declared that "an acute shortage occurred in the latter part of the year mainly owing to the increased demand from employers and the plentiful harvests in the native reserves." [27]

Increased European immigration and "closer settlement" of the land will increase the demands for labor, as does the construction of new railways or other public works. The total acreage of coffee-bearing farms has increased from 43,359 in 1922 to 65,150 in 1925, and 26,224 acres planted with trees now under three years of age [28] are gradually coming into bearing.

In the face of this labor shortage, farmers and others revived the demand for government aid, and also for imported labor. They believed that the native was lazy and that thousands of natives were available for labor, if only there were an incentive. "The native in the reserve," one of them declared, "farms his women rather than his land. In other words, his farming is done through his women, and he himself hardly knows what work is. For work is not his custom." [29]

In February, 1926, the Convention of Associations passed a resolution stating that "In view of the inability of the present Native Administration of this Colony to deal with the very serious situation arising out of the general labour shortage and in view of the fact that neighbouring territories of Africa refuse to permit recruitment of labour, this Convention urges upon Government and the elected members the necessity of *immediately tightening up administration in the reserves,* and of making clear their intention that all able-bodied adult natives do work of some sort." [30] In September, 1926, the Nairobi Chamber of Commerce expressed anxiety over the labor supply and said that it deemed it necessary that "in view of the present shortage, the daily increasing demand and the future development of the Colony which will entail a still further demand, some stated policy be disclosed by Government." [31]

Likewise, the Association of Chambers of Commerce called the attention of the government "to the absolute necessity for the immediate establishment of the Colony's industries on sound foundations as regards the labour supply." The member who made this motion declared that the

[26] *Native Affairs Department, Annual Report,* 1924, p. 48.
[27] *Ibid.,* p. 52.
[28] *Agricultural Census,* 1925, p. 33.
[29] Speech of Lord Francis Scott, *East African Standard,* June 6, 1925.
[30] Editorial, *ibid.,* May 29, 1926.
[31] *Ibid.,* September 18, 1926, p. 28a.

"very existence of the entire community" would be "seriously threatened" unless action were taken. The labor supply in 1925 had declined ten per cent. "Scarcely a single producing concern in the Colony" had had an "adequate supply of labour during this period. . . . At times, these concerns had been short of labour to the extent of fifty per cent of their requirements." Coffee was unpicked and maize unreaped because of a labor shortage. Capital was frightened. At this junction, the government planned to embark upon a large building program which would still further absorb the labor which the farmer needed.[32]

5. *Imported Labor*

In addition to advocating, in these veiled terms, compulsory methods, European industry in Kenya, through some of its representatives at least, demanded the importation of labor. The majority of the members of the Labor Commission of 1913 recommended the indenture of Asiatics, if necessary for large works and plantations on the Coast, subject to compulsory repatriation. The minority favored unlimited importation of indentured labor provided that the conditions under which laborers worked were controlled by the government.[33] The Labor Bureau Commission of 1921 declared that in case the measures for increasing the local supply failed, a labor bureau should be established for recruiting African labor outside the Colony. Kenya employers have worked to recruit labor in Tanganyika and Uganda.[34]

By the casting vote of the chairman, the farmers' organization, called the Convention of Associations, at its meeting in October, 1926, passed a resolution asking the government to appoint a committee to inquire carefully into the available labor supply and in the meantime to make inquiries "as to suitable sources of supply outside the Colony, ascertain terms of employment, and devise the necessary machinery for tapping such sources." [35]

In the discussion which preceded this motion, a number of members, while rejecting the possibility of Oriental labor, favored the importation of natives from Portuguese Africa. Lord Delamere said that in place of Indians they should try the "Italian family system." [36] Lord Delamere later said:

"With regard to labour we have got to find a solution. I lean towards the Italian who with his wife and family can get a greatly increased output

[32] *East African Standard, Supplement,* May 7, 1926.
[33] *Report, cited,* p. 326.
[34] While neither entirely obstructs the voluntary employment of labor, they do not allow, except under special circumstances, the recruiting of labor for foreign service.
[35] *East African Standard, Supplement,* October 30, 1926, p. 8.
[36] *Ibid.,* p. 5.

of labour as compared with our native at an admittedly high, in proportion, rate of pay. . . ." [37]

Major Hemsted observed that in the coming year a big crisis would occur because of a deliberately organized passive resistance movement on the part of a section of the native community.

Following the adoption of the above motion the question was raised whether it included the importation of Indian labor. It was pointed out that three years ago the Convention passed a resolution against Indian immigration. Despite the statement of a member that Indian coolies were "of an entirely different calibre than Indian political agitators . . .," the Convention now passed a new resolution opposing the introduction of Indian labor.

Several district farmers' associations asked the investigation of the possibility of importing overseas labor into Kenya,[38] while the local papers were full of correspondence in which the advantages and disadvantages of the proposition were discussed. The government soon made known its opposition to this proposal.[39] This opposition apparently rests upon its expense and the social results which have been experienced in South Africa and elsewhere where this policy has been tried.[40] From the standpoint of the Kenya native population, however, it would appear that imported labor would really be of advantage if it would relieve the pressure now imposed on the reserves, and result in decreasing the number of men who are now obliged to work away from their homes.

6. *Labor Pressure*

Subject to the terrific demands of European organizations, the Kenya Administration gradually retreated from its policy of "neutrality" established in 1921. In March, 1925, the acting Governor declared to the Convention of Associations: "Government expects every administrative officer to give all possible encouragement to the labour within their district to work on the lands which have been opened up by the settlers." [41]

In February, 1926, the Governor of Kenya joined with other East Africa governors in a resolution which said that officials should give the natives to understand that they must work either for themselves or for Europeans; and that in the absence of transport facilities, they should work for Europeans.[42] This statement was followed in October, 1926, by an

[37] *Ibid.*, p. 14.
[38] *East African Standard,* September 4, 1926, p. 36.
[39] In 1926 Mr. Amery reiterated the opposition of the Colonial Office to indentured labor, whether in Kenya or elsewhere. *H. C. Deb.* March 29, 1926, col. 1633. Cf. also *H. C. Deb.* April 26, 1920, col. 951.
[40] Cf. Vol. I, Chap. 2.
[41] *East African Standard,* March 14, 1925:
[42] Cf. Vol. I, p. 309.

address of the Governor, Sir Edward Grigg, to the Convention of Associations, in which he said that the government "neither can nor will produce labour from the Reserves by compulsion of any sort." Nevertheless, he said that the Kenya Government carried a special responsibility in regard to labor which governments did not carry in Europe. "Here in Africa Government stands, to use an old phrase, *in loco parentis* to the African population. If government gives encouragement and advice—I am talking of genuine encouragement and advice, not of veiled compulsion of any sort—and if it says that working on farms is a good thing and beneficial to the native, thousands of natives will cheerfully go out. If government, on the other hand, and the officers of government are indifferent, thousands will equally cheerfully stay at home." [43]

This is the doctrine, then, of "encouragement and advice," which, as the Governor frankly admits, will succeed in furnishing the settlers with labor as successfully as open compulsion. As the Bishops' Memorandum said in 1919, "A hint and an order on the part of the Government are indistinguishable" to the native. The East Africa Labor Commission of 1913 pointed out: "The Chiefs and Headmen take their attitude from their District Officer, . . . , where they are impressed by him with the necessity of sending men to work, they, from a very natural desire to stand well with him, resort to methods which cannot be termed otherwise than forcible, for the means employed are either actual physical restraint, or the temporary seizure of stock, or threats." [44]

Toward the end of his speech, the Governor did say that the native would be given the alternative of working on his own land where such an alternative was open to him. The native should have the "fullest possible opportunity of developing the great areas which have been secured to him by law." [45] Does this mean that the Kenya native must not only develop his own land as does the Uganda native, but also must turn out and develop the European farms? It is difficult to reconcile the Governor's afterthought with respect to cultivating land in the reserves with his first statement that if the government gives encouragement and advice, thousands of natives will cheerfully go out.

Following the Governor's speech, a debate took place in the Legislative Council at which the Colonial Secretary said that administrative officers had been "instructed generally and individually" that they were to "do their utmost to promote the flow of labour" which was "of such immense

[43] Government had a right to "compel natives to produce," because "the development of the whole Colony is of paramount interest to all the natives in it."
[44] *Native Labour Commission,* 1912-1913, East African Protectorate, p. 323.
[45] *East African Standard Supplement,* October 30, 1926, p. 2.

importance to the industries of this country"—a statement which contained nothing about the right of the native to work for himself.[46]

The gratitude of the local community toward these expressions of the governor was reflected by the *East African Standard* in a leader which declared that "Government policy is certainly more definite to-day than it has been in past days," and by a speaker at the Convention of Associations who, in referring to the "very courageous speech" of the Governor, said, that for the first time, a governor of Kenya had "identified himself with white settlement in the Colony." [47] A few months previously, a writer to the *Standard* expressed his opinion thus: "The Government has directly and indirectly brought pressure to bear on natives so as to make them turn out to work"; but he doubted whether the natives or the "people back home" would "stand for further pressure." [48]

It is difficult to determine whether as a result of the change in government attitude, the labor policy of Kenya has reverted to that laid down in the Northey circulars of 1919. At present, the Kenya Administration would doubtless insist that there is no compulsion but merely "voluntary pressure"—which appears to be a contradiction of terms. As a matter of fact, the administration said the same thing about the Northey circulars of 1919. The grave disadvantage of any such system of "persuasion," [49] is the likelihood of abuse. The administrative officials of Kenya do not wish to recruit labor for private enterprise; they are as much devoted to native interests as officials in any other part of Africa.[50] But when an African official is instructed to "urge" natives to seek employment out of the reserves, but not to use compulsion, he is placed in a difficult position. Settlers and recruiters constantly besiege him for help; and when it is not forthcoming they can make his existence miserable. As long as the government recognizes an obligation to assist settlers in obtaining labor—an obligation which it has now accepted—it is difficult to see how the native will have freedom of choice as between working for himself and for the settler, when a labor shortage arises. Even if the pressure policy should be lightly applied in Kenya, other territories, stimulated by

[46] Minutes, *East African Standard, Supplement,* October 23, 1926, p. 5.
[47] Editorial, *East African Standard,* October 22, 1926, and *ibid., Supplement,* October 30, 1926.
[48] *East African Standard,* May 1, 1926, p. 30.
[49] Cf. the criticism of the Rhodesia Native Affairs Committee, Vol. I, p. 228.
[50] The fact that officials have been given the right to hold land in Kenya may eventually align officials more with the settlers than with the natives. The Kenya Missionary Council has declared: "We think that the holding of land by officials in Kenya has [done] much to give rise to anxiety in the Native. The official at once becomes an interested party whose sympathies are apt to be drawn to the side of the employer of labour. . . . The official at present ought to be safeguarded from influences which would vitiate his judgment as the protector of the untutored African."

Kenya's example, may seize upon this policy to obtain much more literal results.[51]

7. *Labor Recruiting*

In order to obtain this labor, European settlers now rely upon (1) voluntary laborers who may or may not sign contracts; (2) laborers who come out as a result of government pressure; (3) recruited laborers. Some settlers utilize a favorite native headman to recruit in the reserves for their personal needs. Other settlers go to professional recruiters, called "Labor Agents," licensed by the provincial commissioner of the province where they wish to operate.[52] In 1925, about twenty such permits were issued, including two to women and five to Indians. These agents, with native "touts," circulate through the reserves and endeavor by persuasion or other means to induce natives to sign a contract to enter European employment.[53] In 1913, the recruiting system was criticized by the Native Labor Commission which declared that this system was bad on the ground that the "Chiefs have every inducement to hold back labour in order to supply them [the recruiters]". It further maintained that "the evidence shows that the chiefs in supplying them resort to force, while labour itself is made distasteful to the labourers, as, in fact, they have little choice of either work, locality, or employer."

"The evidence also bears out the fact that force is equally used by the Chiefs when labour is required by Government, and that the distinction between a Labour Agent and the Government practically does not exist in their minds, for they will not supply any person with labour unless he has some means of showing that he has authority to recruit from the District Officer; such a person becomes in effect an emissary of Government.

"The tendency of the whole system is to interfere seriously with the supply of voluntary labour, which is the best from every point of view, firstly by checking the flow, and secondly by forcing out those who have worked voluntarily, and have returned to the Reserves to rest or for other reasons, to work either for employers who obtain labour through Labor Agents or for Government, before the object for which they have returned has been accomplished. Instances have occurred of natives in permanent employment who have been given leave to go to the Reserve, being compelled by the Chief to go to work elsewhere." [54]

With the growing intelligence of the native in the Kavirondo and

[51] Cf. the experience of the Congo and French West Africa, index.

[52] Rules, Masters and Servants Ordinance, 1910, *Gazette, cited,* 1910, p. 227.

[53] The provisions of the Kenya legislation in regard to medical examinations of recruits and the attesting of contracts are discussed in Vol. I, p. 351.

[54] *Report of the Native Labour Commission,* 1912-1913, p. 330.

Kikuyu reserves, chiefs no longer dare to impose this type of compulsion. Thanks partly to the establishment of such bodies as the Kavirondo Welfare Association, the natives in the reserves know what their rights are. It appears, however, that in the more backward reserves, recruiters still seek the aid of chiefs in securing labor.[55] Where such conditions exist, the chiefs come to look upon their subjects as a source of revenue. Most of these illicit negotiations are handled not by European labor agents but by their native "touts," who do not need to be licensed, and hence escape the control of the government. The administration realizes that steps should be taken to correct this condition. Sir Edward Grigg wishes to abolish professional recruiting altogether.

There is no monopolistic labor bureau in Kenya such as one finds in the Belgian Congo, Southern Rhodesia, or South Africa. Groups of settlers have formed such bureaus, notable among which were the Fort Hall Recruiting Association and the Kisumu Labor Bureau. But all of these attempts have failed. The agitation has, nevertheless, persisted, and in 1921, the Kenya Government appointed a Labor Bureau Commission to go into the question. Of the witnesses called, fifty-three were in favor of the establishment of a Labor Bureau, while thirty-three were opposed. Most of these witnesses opposed such bureaus on account of their great expense.[56]

In 1926, the Chief Native Commissioner appointed a labor committee which was asked to advise as to "whether any system of labour bureaux and exchanges can usefully be initiated in the Colony." The Chief Native Commissioner reported to the Legislative Council that the government would provide rest-houses for recruited labor en route to or from the reserves. Thus the government would furnish the facilities which the recruiter had formerly provided, and he would then disappear. It would seem that, from the employer's standpoint, there would be no need for the private recruiter, as long as government officials impose pressure on labor and the government provides for their needs en route.

8. *The Labor Supply*

How successful, from the employer's standpoint, has the Kenya labor policy been? The potential supply of labor in Kenya has been subject to

[55] The Labor Bureau Commission, *Report,* 1921, *cited,* p. 5; cf. also *Report of the East Africa Commission,* p. 173.

[56] The commission considered four possible types of bureaus: (1) a Government Department; (2) a private undertaking, such as the Rhodesian Labor Bureau, receiving a subsidy from the government; (3) a Board of Control, administering a fund created by a special labor tax, on lines described in Part 6, Chapter 13, of the Federated Malay States Labor Code, 1912; (4) various forms of employers' associations on the lines of the Southern Indian Labor Commission.

various estimates. In 1921, the Labor Bureau Commission expressed the opinion that the native males available for work were confined to those between the ages of sixteen and thirty—a group which constituted one-seventh of the total native population. It believed that twenty per cent should be deducted from this group for the unfit, and two and one-half per cent for those engaged in trade. Moreover, certain tribes, such as those inhabiting the Machakos, Kitui, and Ravine reserves, had not come into the labor market to any extent. According to these calculations, the total available supply in Kenya came to about one hundred and seventy-six thousand men, but the Commission declared that only half of this number could be expected to be in actual employment, which would make the constant supply about eighty-eight thousand.[57]

A few years later, the Economic and Finance Committee estimated that males between fifteen and forty, a group which constituted one-fifth of the total population, or nearly four hundred and twenty-four thousand men,[58] (in 1921) could be regarded as suitable for European employment. It appears that the government is now registering for employment a large number of men below the age of fifteen or above the age of forty as actually going into employment, inasmuch as nearly 575,000 men were registered in 1925, and 622,836 at the end of 1926.

In 1927 another Labor Commission reported that the estimated maximum and minimum seasonal demand for labor would be as follows:

1927	Minimum.....	170,000	Maximum.....	203,000
1928	Minimum.....	187,000	Maximum.....	222,000
1929	Minimum.....	206,000	No maximum given.	

The Commission estimated the supply of adult male laborers at 170,000 in 1927. It is reported to have declared, "The annual increasing number of women and children seeking light employment such as Coffee picking and weeding justifies the belief that the extra demands for large Coffee crops in 1927 will be met." [59]

The Commission considered that sufficient labor for 1927 was on hand and that in the absence of unforeseen circumstances, no justification existed for apprehension in regard to the adequacy of the labor supply to meet the needs of steady development for the next three years, provided the suggestions of the Commission in regard to proper organization on the part of employers are adopted and that economy is exercised.

[57] *Report of the Labour Bureau Commission,* 1921, Table II.

[58] Appendix A, *Interim Report of the Economic and Finance Committee on Native Labour,* 1925.

[59] It estimates that agriculture will have increased by the end of 1929 as follows: Coffee—11,000 acres; Sisal—30,000 acres; maize—87,000 acres; wheat—66,000 acres

At the same time it should be pointed out that the minimum demand fixed by the Commission for 1929 is 206,000 men which is 41 per cent of the adult males in the country.

If every native man between the ages of fifteen and forty were continually in European employment, the total available labor supply would be about 500,000. But as twenty per cent of the male population is estimated to be unfit for such employment, and as large numbers of men are obliged to plant crops and otherwise cultivate their land at certain times of the year, every commission has agreed that at the most not more than half, or 250,000 of the eligible men can be expected to be under European employment at the same time.

While this is the potential supply of labor in the country, the actual supply depends upon the willingness of the native to leave his home and seek work from Europeans. As a result of efforts which have been described, the actual supply of labor has increased since 1912 as follows:

Kenya Labor Supply

Year	*Number under Employment*
1912	12,000
1920	90,000
1923	129,296
1924	133,900
1925	152,384
1927[1]	185,409[2]

[1] First three months.

[2] These figures are taken from the *Report of the Labour Bureau Commission,* 1921, p. 9; the *Native Affairs Department, Annual Report,* 1924, p. 55; and the *East African Standard,* Report of the Chief Registrar, September 18, 1926, p. 42; and *ibid.,* April 23, 1927, p. 28B, and from certain official sources.

In other words, native labor under employment has increased about 100 per cent in the last seven years. The number of men at work is about 34 per cent of the total number of available men between the ages of fifteen and forty. It is probably a little less if deduction is made for alien natives under employment.

Because of the distance of certain tribes from the labor market and because some tribes such as the Masai refuse to work, this percentage weighs heavily on certain districts. According to the report of the Chief Registrar of Natives, during the first three months in 1927 72 per cent of the adult male population in the Lumbwa-Kericho tribe, 72.28 per cent in the Kyambu-Nairobi (Kikuyu) tribe, 64.45 per cent in the Nandi tribe, 50.30 per cent in Fort Hall, 48.22 per cent in North Kavirondo, and 44.91 per cent in North and South Nyeri were under European employment. These tribes were offset by the Masai, only 25.28 per cent of whose

men were at work; and by the natives of the Machakos district, 20 per cent of whose men were under European employment.[60]

The situation in Kenya, compared with that in other territories, is shown as follows:

Natives under European Employment

Territory	Total Population	Male Population [1]	Actually continuously employed	Per cent of total population employed	Per cent of men employed
Kenya	2,500,000	500,000	169,000 [2]	6.8	33.8
Belgian Congo	10,500,000	2,100,000	300,000	2.9	14.3
Tanganyika	4,123,593	824,698	128,000 [3]	3.1	15.5
Transkei	1,053,000	210,000	86,000 [4]	8.2	41.0
Nigeria	18,660,717	3,732,143	80,000	.4	2.1
Southern Rhodesia	899,573	179,915	50,000	5.6	27.8
Gold Coast	2,298,433	459,686	25,000	1.1	5.4
Uganda	3,145,449	629,090	25,000	.8	4.0
Basutoland	543,000	108,600	38,000 [4]	7.	35.

[1] Estimated as one-fifth of the total population.
[2] We have used the 1926 figure. Had the 1927 figure of 185,000 been used the percentage under employment would be 7.4 per cent and 37 per cent respectively.
[3] This is probably an exaggerated figure. Cf. Vol. I, p. 496.
[4] Excluding women. Cf. Vol. I, p. 170. Some of these figures are only estimates, inasmuch as some territories, such as Nigeria and Uganda, have no detailed records of labor under employment. But we have used reasonably accurate figures for Kenya and the Congo.

It seems clear from this table that next to the Belgian Congo, Kenya has more natives under employment than any other territory in Africa,[61] and that from the standpoint of population, it has a larger percentage of natives under employment than the Belgian Congo. It is exceeded only by the Transkei and Basutoland.

The success in transforming the Kenya native from a peasant producer or "loafer" as the European settlers assert him to be, into a wage-earner has not, however, as we have seen, relieved the labor shortage.

9. *Labor-Saving Devices*

This review shows that in Kenya, European enterprise has outrun the labor supply just as it has in South Africa, Southern Rhodesia, and the Belgian Congo. It is doubtful whether legalized compulsion could supply

[60] Cf. the article "Labour Statistics and Tribal Progress," *East African Standard,* March 26, 1927. This article says that 20 per cent of the men between fifteen and forty are physically unfit for work, and estimates that the available male population is four hundred and seven thousand.
[61] Excluding always North Africa.

European needs in Kenya to a much greater extent than they are supplied at present, unless, indeed, the native reserves are destroyed. A number of thoughtful Europeans, both settlers and officials, have come to realize that instead of basing future hopes on a larger quantity of laborers, they should improve labor efficiency. The waste of labor in Africa to-day is appalling. Every European must have several "boys" to administer to his needs, and industry is organized on a similarly extravagant basis. Several years ago, the sisal estates reorganized their industry upon the basis of labor-saving machinery which relieved their labor difficulties to a marked extent. Instead of using cattle for ploughing, a number of European farmers have now introduced tractors thereby effecting a reduction of about half the labor formerly employed.[62] Other farmers have effected a labor saving of seventy-five per cent by using lorries instead of oxen for harvesting maize. It appears, however, that the extension of the use of machinery in Kenya depends upon the cheapening of the price of oil.

More interesting still is the fact that the government and some farmers are considering the desirability of introducing labor-saving crops. At the present time, sisal and coffee are two of the three leading exports of Kenya. Because of the great care with which these products are prepared for the market, they need a much larger number of units of labor than does maize or dairying.[63] The production of tea, which some Europeans now wish to introduce into Kenya, also requires a relatively excessive labor force. In his speech to the Convention of Associations, Sir Edward Grigg pointed out that Canada, Australia, and New Zealand were founded on the industries of stock breeding, wool, dairying, and sheep. He mentioned the phenomenal development of wheat in Canada for which white men working for themselves were responsible. In his opinion, the cold of the Canadian prairies was more trying than the climate of Kenya; and the heat of Australia was as strong as the heat of Kenya. He mentioned the development of the sugar industry in Queensland by the use of white labor. One could imply from this speech that the Governor believes that the white man in Kenya should himself perform manual labor. He openly asked that the industries of wheat and dairying should be greatly advanced.[64] If these two ideas of labor-saving crops and of white labor

[62] Cf. the report of the meeting on Fuel Oils, *East African Standard,* March 20, 1926, p. 10.

[63] Cf. *Interim Report of the Economic and Finance Committee on Native Labour, cited,* p. 13.

[64] In the Election Manifesto, the unofficial members of the Legislative Council likewise declared that "closer settlement for mixed farming, dairying and wheat growing (the industries which make the least call on the labor supply) on lands already alienated as well as on Crown lands" should be encouraged. *East African Standard,* January 1, 1927, p. 35.

could be carried into effect, European enterprise in Kenya would become "largely independent of the labour supply," and the greatest problem confronting the country would be solved. But the difficulty is in applying these theories. The type of settler who has come to Kenya has not been the immigrant from Central Europe who has been accustomed to using his hands, but a man of comparative means, usually unfamiliar with manual labor—made more arduous than ever in Kenya altitudes and under the Kenya sun. Some of the speakers who followed the Governor at the Convention of Associations pointed out that coffee, tea, and sisal were planted in districts unsuitable for wheat or stock. The policy advocated by the Governor was "suicidal and could lead to nothing but disaster." The country was to be sacrificed because the powers-that-be refused to take the "step that would save it"—apparently a reference to legalized forced labor.

Moreover, the profits from an acre of coffee are ten times the profits from an acre of wheat. No settler will willingly sacrifice this form of income any more than he will close up his farm. It is difficult to see how the local administration can compel a farm owner to tear up his coffee and plant maize. If this end is attained, it will mean that the present intensive system of agriculture will be replaced by an extensive system, and that a settler, to make a living, will have to use a larger acreage than before. This will automatically cut down the agricultural openings for the white immigrant, and likewise diminish the value of land.

Notwithstanding the good intentions back of these proposals, it is problematical how far better recruiting methods, less waste in the employment of labor, the use of labor-saving machinery, and the introduction of new types of crops will relieve the labor shortage, made more acute by increased native production. On the other hand, the increasing demand for labor from white settlers is not problematical; it is a certainty. Instead, therefore, of counting upon labor-saving devices or the indefinite extension of the labor supply, some Europeans in Kenya believe that the demand for labor should be controlled in relation to the available supply; in other words, that land alienation and European immigration should be restricted.

10. *Limiting the Demand*

In a memorandum to the East African Commission at Kenya, the Missionary Council declared that the time "seems to have come when the encouragement of further European settlement should be held in abeyance, until it is seen that the country can stand a fresh immigration of settlers." It went on to say: "We, therefore, recommend definitely that no further alienation of Crown Land should take place, first because there

is very little left, and the unestimated needs of the African population and its increase have not yet been computed, and secondly, because to alienate fresh land now to Europeans is likely to emphasize acutely the difficulties of the labour supply, and the impossibility of fully developing the areas already alienated."

The East African Standard, the leading newspaper of the territory, in 1926, declared: ". . . Before attracting further settlers, we have to be satisfied that the present rate of production will not be jeopardized by watering our existing labour supply or that we are correct in forcing the pace of production beyond the rate of progress made by our labour. . . ." [65] *The Standard* further remarked, in a later editorial, "If we are going too fast in our development, let us be told so, with the remedy." [66] But the Governor, Sir Edward Grigg, did not apparently see the connection between further settlement and the labor shortage. In a speech at Eldoret, he boldly declared that after communications, what was needed was new settlers and capital [cheers]. He had heard rumors of discouragement in England regarding the future development of white settlement in Kenya, but he could assure them [his audience] that he would have no part in this discouragement, and would do his utmost to develop European settlement in Kenya [loud cheers] as he was convinced that that was what the country needed.[67]

In his Convention of Associations speech, the Governor said: "The central aim of the Colony should be settlement and still more settlement"—a sentiment which he reiterated in the Legislative Council.[68]

It appears, nevertheless, that the labor question was troubling the Colonial Office at home. In an answer to a question in the House of Commons in March, 1926,[69] the Secretary of State said: "Where land in districts suitable for European settlement is available, either from unoccupied Crown land, or by purchase or lease from the present European holders, and where there is a supply of native labour which will be attracted by the terms of employment offered, I am entirely of the opinion of the Governor of Kenya that European settlement in East Africa is to be welcomed." [70]

In reply to a question in the Kenya Legislative Council, the Land

[65] Cf. the editorial on "Further Land Alienation," *East African Standard,* August 28, 1926, p. 13.
[66] *Ibid.,* September 25, 1926.
[67] As reported in *ibid.,* December 19, 1926, p. 28A.
[68] *Ibid., Supplement,* November 18, 1926, p. 6.
[69] *H. C. Debates,* March 15, 1926, col. 11.
[70] He added, "There are, however, in these tropical dependences large areas where these conditions are not fulfilled, and where the country can be better developed by the encouragement of native cultivators."

Commissioner declared that certain farms would be put up for auction on the understanding that "no labour difficulties would be caused." [71] Following the gazetting of the native reserves, the elected members of the council demanded, however, that land alienation should not be "held up owing to any possible shortage of labor." [72] This they regarded as an "unwarrantable interference with a domestic matter." [73]

The Convention of Associations said that in "view of the increasing European population, all Crown lands should be alienated forthwith." [74] Previously, the Ruir Settlers' Association protested that the alienation of land should not be held up because of a *wrong* native policy which resulted in a labor shortage.

In November, 1926, the Commissioner of Lands told the Legislative council that the rumor to the effect that the Secretary of State had "impeded alienations of land" was a "myth." [75] Despite London's uneasiness about the labor supply in relation to land alienation, the Kenya Advisory Committee, a body appointed by the Governor to keep the Publicity Office in London informed as to policies in the colony and to formulate development schemes, outlined plans in 1927 for closer settlement and even studied schemes for assisted emigration of white farmers to the territory.[76] The policy of the government is still therefore to increase the number of settlers as quickly as possible, which will increase the demand for labor without increasing the supply.

European settlers who have invested their fortunes in a country at the invitation of the British Government cannot be blamed for demanding native labor. Put in the same position, the Twelve Apostles would not have acted otherwise. But if the British Government encourages white settlement, as the Governor is now doing, instead of imposing restrictions on immigration and the alienation of land, it should be held responsible for the bankruptcy of European enterprise, should it take place.

. . . . . .

So far, we have been discussing the question from the point of view of the European. Before discussing it from the point of view of the native, we shall discuss the question of the treatment of labor.

[71] *East African Standard,* July 24, 1926, p. 29.

[72] Apparently the elected members believed that alienation would be the best safeguard against the extension of the reserves.

[73] *Ibid.,* June 26, 1926, p. 32.

[74] *Ibid., Supplement,* November 6, 1926, p. 2.

[75] *Ibid., Supplement,* November 6, 1926, p. 3. He also said he had been exercised by much that had been said about the labor shortage.

[76] Cf. "Closer Settlement in Kenya," *East African Standard,* February 26, 1927, p. 41.

CHAPTER 22

THE TREATMENT OF LABOR

1. *Masters and Servants Ordinance*

THE treatment of labor concerns not only the native but also the employer, inasmuch as in Africa, the efficiency of labor and the percentage of desertions depend to a great extent upon working conditions. As long as European employment in Kenya is agricultural instead of mining in nature, the problem of the treatment of labor will in some ways be more simple than in South Africa. Nevertheless, the administration of labor legislation in a community having a large number of small farmers as employers is more difficult than that of a community having a few mines employing large bodies of men.

Native labor in Kenya is protected by the Masters and Servants Ordinance of 1910 [1] which makes it an offense for the employer to withhold wages, and requires him to supply proper food and housing, unless the native is in a position to supply himself. The employer must also provide medical attendance. Notwithstanding these provisions, for a period of fifteen years, the government imposed no definite standards, and consequently the employer was nearly free to do as he liked. In 1913, the Native Labor Commission reported that the existence of a labor shortage was partly caused by the unsuitability and monotony of diet and by other disagreeable living conditions.[2]

In 1919, the Chief Native Commissioner informed the Legislative Council that if things were to "go on much longer in this irresponsible manner," there would soon "be no labour," and there would be "no natives left to work." [3]

A step toward improving conditions was taken by the introduction of an amendment to the Masters and Servants Ordinance of 1919 which provided for a system of labor inspection and of medical examination of recruited labor.[4] At first, the bill was vigorously opposed by settler members of the Legislative Council who declared that its consideration

[1] *Ordinances,* 1910, p. 9.
[2] *Report, cited,* p. 322.
[3] *Proceedings of the Legislative Council, third session,* 1919, p. 17.
[4] Masters and Servants Amendment Ordinance, 1919, *Ordinances,* 1919, p. 80.

should be postponed until after the registration system had been put into effect.[5] The bill, however, finally passed. It authorizes a labor inspector to enter any labor camp or farm to inspect sanitary arrangements, food, and housing. He may take cognizance of any offense committed by an employer, who may be prosecuted by the chief native commissioner. This official may also institute an action on behalf of any native employee against an employer. In 1923, twenty-four proceedings were instituted against employers, a number which declined to nine in 1924. This reduction was due to the practice of serving employers formal notices and demanding compliance with specific instructions within a stated period.[6] A government medical officer may exercise the powers of inspection conferred upon the labor inspectors and may "order the supply of such variety of food for servants as he may deem necessary, provided that cost of the food supplied . . . shall not exceed the normal cost of rations ordinarily supplied." The medical officer may also condemn unfit food and housing. Recruited laborers must pass a medical examination before administrative officials may attest their contracts.

At the present time, the Kenya Government, following the example of the Belgian Congo and British West Africa,[7] employs four labor inspectors. One of these inspectors spends his whole time upon matters concerning railway labor. A second is occupied with construction labor at Eldoret; and another remains in the Nairobi office. The remaining inspector attempts to inspect two thousand farms—obviously an impossible task. The salaries of these inspectors, ranging from two hundred and fifty to four hundred pounds, seem unduly low. A minimum of two more inspectors is necessary if these farms are to be adequately supervised.

Kenya has no legislation providing for accident compensation. In practice, a number of employers pay compensation recommended by government inspectors, which in case of death is usually two years' wages, or in the case of the loss of a leg is two hundred and fifty shillings—figures higher than those in the Congo, but not prescribed by law. Thus out of seventy-six accidents reported in 1921, forty-six men received compensation amounting to £113.6. In 1924, however, only ten out of sixty-six victims of accidents were compensated—the total sum paid being £39.5s.[8]

Although about six thousand women and twelve thousand children

[5] Cf. Vol. I, p. 357.

[6] *Native Affairs Department, Annual Report,* 1924, p. 43. In 1922, the government recovered from employers 1079 pounds in wages for five hundred and eighty-one claimants. In 1924, it recovered four hundred and seventeen pounds for two hundred and forty-five claimants. *Ibid.,* p. 51.

[7] Cf. Vol. I, p. 763, Vol. II, p. 564.

[8] *Native Affairs Department, Annual Report,* 1924, p. 51.

are employed on European farms,[9] mostly in connection with the picking of coffee, they are subject to little protection from the government. It is believed that this work is not physically injurious. It has led, however, to moral abuses in connection with women workers living away from home, and it has also led to a growing indiscipline among children. In an attempt to improve matters, the administration has promulgated rules which provide that no owner shall allow any native woman worker to remain on the premises at night unless accompanied by her husband, if married, or by her father or other relatives if single, or less suitable separate or joint female accommodations are provided.[10] Under an amendment of the Masters and Servants Ordinance of 1919, the employment of natives under the age of sixteen as porters, fuel cutters, trolley or rickshaw boys, or in any other class of labor for which in the opinion of the government medical officer children are unsuitable, is prohibited. Nevertheless, so-called *toto* or child labor is widely used in Kenya, not only for coffee picking where it is not physically harmful, but also for heavier work. Thus children have been used on the sisal estates in the Thika and Fort Hall districts, and in fuel and ballast camps. Recently, the labor inspectors stopped children eight or nine years of age from breaking heavy stone for European employers—the allotted task being seventeen cubic feet a day. Inasmuch as this *toto* labor is casual and not contract labor, it is not subject to medical examination. Further legislation appears to be necessary to safeguard the interests of native women and children.

2. *Female and Child Labor*

In 1925, the Kenya Medical Service instructed one of its officers on return from leave to study the treatment of labor in South Africa, the Congo, and other places. This official published a series of articles in the local paper, pointing out that Kenya fell short of many other territories in the treatment of labor.[11]

It appears that the diet given the Kenya native is inferior to that of other parts of Africa.[12] The Chief Medical Officer declared in the annual report for 1924 that "Visits to European farms have disclosed the fact that in almost all the cases, African labour is housed under the most unsanitary conditions and much overcrowding occurs.[13] The govern-

[9] The number of children under employment increased from 5935 in 1922 to 11,315 in 1925. *Agricultural Census,* 1925, p. 41.

[10] *Gazette, cited,* 1923, p. 294. Cf. also Sanitary Rules, 1924, *ibid.,* 1924, p. 229, requiring native employees to use specified latrines.

[11] Cf. "Straight Talks on Labour," No. 2, *East African Standard,* June 10, 1926, p. 7.

[12] "Native Diets," *Kenya Medical Journal,* August, 1925.

[13] Cf. *East African Standard,* March 21, 1925.

ment took steps to improve these conditions by the promulgation, in 1926, of the Native Labor (Medical Treatment) Rules,[14] which oblige an employer of more than fifty men to keep on hand a stock of certain defined medicine and equipment, and which provide that an employer shall be liable for the maintenance of any servant admitted as an in-patient in a government hospital until the termination of the contract of the native or for a maximum of thirty days.[15] The question of the proper diet for native laborers has also received the careful attention of various committees.

While conditions are gradually improving, much remains to be done, particularly in regard to housing and in the enactment of accident compensation laws.

3. *Government Labor*

Forced labor for certain public purposes is at times necessary in every territory in Africa.[16] Yet when administrative officials are at liberty to resort to compulsion at their discretion, they are not apt to make suitable efforts to obtain voluntary labor, nor to treat compulsory labor well, once it is at hand. Moreover, it appears that for a time it was the practice of the Kenya Government to pay compulsory labor on the railway two shillings a month less than the wage paid to voluntary labor. But this practice was prohibited by the Secretary of State.[17]

Further difficulties over the use of wholesale batches of labor arose in the case of the construction of the Uasin Gishu Railway, a branch line of the Uganda Railway designed to open up another part of the Highlands for white settlement. Most of these boys were recruited in Tanganyika with the special permission of that government, although a few came from South Africa.

In the contract between the Crown Agents and the contractors who built the railway, it was provided that "the rations, accommodations, mode of recruiting, employment, etc.," shall at all times be subject to the approval and control of the Native Affairs Department.[18] Partly because the company relied upon labor conscripted by the government, the company became indifferent to the laborers' needs. In some cases, the sub-contractors in charge of recruiting would provide only one day's food to natives going home on a five days' journey. In other cases, sub-contractors

[14] *Gazette, cited,* August 25, 1926, p. 973.
[15] This obligation does not apply in regard to squatters.
[16] Cf. Vol. I, p. 464.
[17] Cf. Despatch in *Compulsory Labour for Government Purposes,* Cmd. 2464 (1925), p. 14.
[18] See Articles 18 and 33-41 of the Contract of September 15, 1921. Cf. Appendix "E," *Native Affairs Department, Annual Report,* 1923, p. 41.

would hire as "voluntary" workers laborers previously recruited but rejected by medical officers. Natives also complained that wages were unfairly cut, and that the tasks required each day were too large. In one case, the contractors repatriated twenty-six Cape boys to Durban, South Africa, where they had been recruited. Upon their arrival there, the boys complained to the magistrate that the contractor had without cause deducted from their pay eighty-five pounds. Upon investigation, it was found that a deduction of only seven pounds was justified. But no action could be taken, because the contractor was in Kenya, and the complainants in South Africa.

Apparently because of the large number of men employed and the great distances over which they had come, the death rate was for a time high. In one month during 1922, the death rate reached eighty-three per thousand, which led the Secretary of State for the Colonies to order an investigation. A more stern control by the labor inspectors and other factors brought down the death rate to an average of 51.32 per thousand for 1922, 35.28 per thousand for 1923, and 14.28 per thousand for 1924. In the latter year, 5,836 men were employed in contrast to 17,426 in May, 1923. This decrease in the death rate was due partly to the decreased number of men under employment. "It is becoming apparent every year that the chief contributing factor in a high death rate is the concentration of a large number of men in one camp." [19] These high death rates were also due to the high altitudes where the natives worked, which increased their susceptibility to disease.

Following the completion of the Uasin Gishu Railway in 1924, work commenced on the Fort Hall-Nyeri line, where forty-two hundred men were under employment, and where the death rate in that year was 16.48 per thousand.

It appears that the Kenya employers follow the contract system in vogue in practically every part of Africa where white enterprise is dependent upon colored labor. Under the Kenya Ordinance, contracts may be made for a period of two years, but in view of the desire of natives to return to their reserves for part of the year, the customary contract extends over a period of six months. The 1910 Masters and Servants Ordinance punished desertion with a fine not exceeding two months' wages or imprisonment for two months.[20] But it provided that the employer must make a complaint before a magistrate "without undue delay."

In 1916, the Legislative Council increased the severity of these sanctions

[19] *Native Affairs Department, Annual Report,* 1924, p. 44. "Instructions for the Care of Labor by Government Departments" are printed in the *Gazette,* 1921, p. 184.

[20] Section 48 (5).

by passing an amendment making desertion a cognizable offense for which a police officer might arrest without a warrant. It also increased the penalty for desertion to a fine of one hundred and fifty shillings or imprisonment for six months.[21]

But the Colonial Office insisted that, with the installation of the registration system described below, desertion should no longer be a cognizable offense. That is, if a settler wanted a native arrested for desertion, he should first make out a complaint, as before 1916. Since then, the Crown had been obliged to prosecute for desertion, whether the employer wished to prosecute or not. Consequently, the employer sometimes had to go to court miles away to be a witness, in some cases, against his will.

These considerations led to the repeal, in 1924, of the provision that desertion is an offense cognizable to the police.[22] In this respect, the Kenya legislation is more liberal than that of Uganda or Tanganyika. But neither of the latter territories has the registration system.[23]

In order legally to punish offenses of laborers and particularly to punish the offense of desertion, settlers must now go many miles to make a complaint to a magistrate. In view of this difficulty, settlers have asked that settler magistrates be appointed to deal with cases on the spot—an idea which Governor Grigg has approved on the ground that it would place responsibility upon the settler. The proposition has been severely attacked in the House of Commons and elsewhere on the ground that it would lead to abuse under the guise of law. While presumably a settler magistrate would not be allowed to pass judgment upon his own employees, he would, nevertheless, have the settler point of view, and it would be very difficult for the Chief Justice to prevent abuses, once this power was granted. An increased number of traveling inspectors having magisterial powers would be a better solution.

In order to maintain a more effective control over native labor, Kenya has in certain respects followed South Africa and Southern Rhodesia in adopting the principle of the pass system. For a number of years, the

[21] *Ordinances,* 1916, p. 1.

[22] Proceedings of the Legislative Council, session of July 1924, *East African Standard,* July 5, 1924.

[23] In 1925, the courts held illegal the practice of "indefinite leave" in a case where an employer carried one hundred and thirty-two natives on his labor roll but actually employed only ninety-two natives. One native worked for one month, received his wages, and went home on three months' leave without pay. But in order to retain his services, the employer would not indorse the discharge upon the native's certificate, without which indorsement it was illegal to take employment elsewhere. Judgment, *East African Standard,* April 18, 1925. According to Kenya legislation, natives must work off thirty-day contracts in forty-two days. Cf. The Masters and Servants (Amendment) Ordinance, 1924, p. 108. This merely revived a provision in a 1918 Ordinance. *Ordinances,* 1918, p. 45.

East Africa Protectorate followed certain pass regulations. In 1915, the Legislative Council passed a Registration Ordinance based upon the finger-print system. The ordinance was not put into effect, however, until 1920, on account of the War.[24] Under the present system, each male native is required to register himself before a district officer. At this time, the finger prints of all ten digits are taken, and three certificates, or *kipandis,* are made out. One, the boy must carry in a metallic retainer; a second goes to the Finger Print Office at Nairobi; and the third remains with the district commissioner. Upon entering European employment, a native must present his certificate for endorsement by the employer. Before leaving the employer, the native must obtain a discharge; otherwise it is illegal to accept employment elsewhere. The employer must keep a labor register and send monthly labor returns to the chief registrar at Nairobi. Although at first employers were slow to comply with these provisions, at present all but seven per cent regularly send in returns. This registration system, which is remarkably well administered, has now succeeded in registering five hundred and sixty thousand natives—practically all the native males in the protectorate over fifteen years of age. Despite the reduction in its expense, the system still costs the government about fifteen thousand pounds a year.

By means of this system, it is supposedly easy to identify and trace deserters, since every native is catalogued. Lord Delamere declared in the Legislative Council: "If the Registration Ordinance were properly carried out with goodwill, there would be practically no desertion as was the case for a short time, because it was almost impossible for anyone to get away, provided that reasonable methods were carried out in the minor courts of the country." [25] But the native is clever, and when he wants to desert, he sometimes destroys a certificate and tells the government that he has lost it. Upon paying three shillings, he may have it replaced by a duplicate. Unscrupulous labor recruiters frequently advance this sum in order to get the deserter to work for a new employer! The repeal of the provision making desertion a cognizable offense, which took place at the introduction of the *Kipandi* system, makes the apprehension of deserters more difficult than before. Originally, the natives bitterly resented the obligation to carry their *kipandis,* which they regarded as badges of servitude. This was one of the grievances which led to the Thuku movement.[26] To the credit of Kenya, it must be admitted that the system is administered more

[24] *Ordinances,* 1915, p. lxxii; *ibid.,* 1920, p. 111; Native Registration Ordinance, *ibid.,* 1921, p. 247; Native Registration Rule, *Gazette, cited,* 1923, p. 743; Kyambu Rules, *ibid.,* 1925, p. 434.

[25] *East Africa Standard, Supplement,* April 18, 1925.

[26] Cf. Vol. I, p. 375.

leniently than it is in South Africa.[27] The native is not asked to show his certificate while in his reserve. Only European or Indian officials may ask him for it outside the reserve. That is, he is not molested by native constables. With his life-long *kipandi* on his person, a native may freely move from one part of the colony to another. The system presents some advantages to the native, since in case of death the government may trace his relatives and thus settle his estate. It appears that the native agitation against the system has, temporarily at least, declined.

This machinery for adjusting the relations of European employers to native wage-earners creates a new category of "crimes" unknown to native law and involving no moral turpitude, according to European standards. As we have seen, the machinery punishes desertion and negligence. Likewise, failure to carry a *kipandi,* to pay taxes, and to live up to sanitary rules are all offenses created by European law. In 1922, 2187 natives were punished under the Masters and Servants Ordinance. In the same year, there were also 3872 violations of the Revenue, Municipal, and other laws, 2216 of which were for non-payment of hut taxes. The Kenya prisons became crowded with native offenders against these minor regulations huddled indiscriminately with hardened criminals. The situation thus created led the Governor to appoint a Native Punishment Commission, to inquire, among other subjects, into the methods whereby labor offenses could be effectively dealt with. The Commission said: "Imprisonment for many technical offences is a great mistake; fines should ordinarily be imposed. . . . In default of fine, it is suggested that periods of detention be inflicted, the detention to consist of an obligation to live in a place allotted for the purpose, and to work not as a prisoner surrounded by guards, but on parole for a Government Department." [28] Its results would be to render such convicts free from any chance of contamination through association with criminals in jails.[29]

This idea of detention camps was carried into effect in an ordinance passed in 1925.

While undoubtedly native offenders against labor and tax laws should

[27] This will not be true, however, if South Africa adopts the measure now under consideration. Cf. Vol. I, p. 116.

[28] *Native Punishment Commission Report,* 1923, Nairobi, p. 2.

[29] It did not believe that flogging for technical offenses was suitable. It went on to say: "But it is doubtful if natives can be flogged to a higher morality. It has in the end a brutalising effect both on the convict, on the magistrate, and on the person who inflicts the punishment, and it should, in our opinion, be confined to juveniles who might be caned for trivial offenses and to those who commit brutal crimes, who should be flogged. . . . The Commission as a whole is not convinced that flogging has much more deterrent effect on the average native than it has on the average schoolboy. . . . The native evidence shows that imprisonment is the most dreaded form of punishment." *Ibid.,* p. 2.

not be herded into an ordinary prison, there is a danger that if the detention camp system is put into effect, officials will impose stern sentences in order to secure to the government a cheap and compulsory labor supply, thus indirectly increasing the settlers' labor supply.[30] Grave abuses under a similar peonage system have occurred in the southern states of America.[31]

It is understood that the Tanganyika Government proposes to improve upon the plan by limiting the labor of these prisoners in detention camps to work for the native administration—a system which might lead to equal abuses by the native chiefs. It should be remembered that in those colonies where a system of peasant production prevails, offenses against labor laws and regulations are seldom committed, and hence the problem with which Kenya is confronted does not arise.

[30] Cf. the correspondence between the Colonial Office and the Anti-Slavery Society, *The Anti-Slavery Reporter and Aborigines' Friend,* January, 1926, p. 139.

[31] Many of these abuses have arisen, however, from the practice of farming out of prisoners to private employers. Cf. E. B. Rueter, *The American Race Problem,* New York, 1927, pp. 238 ff.

CHAPTER 23

KENYA NATIVE POLICY

In establishing control over the East Africa Protectorate, the administration encountered a number of difficulties with war-like nomadic tribes. Perhaps the chief of these was the Somali people, living in the north in what is called Jubaland and in the Lamu district. Following the murder of an official by these semi-Arabian people, the British Government undertook an expedition against the Somalis in 1901, as a result of which they obliged the Somalis to pay a fine of five thousand cattle. The Somalis, as a group, now give little difficulty in Kenya, but Somali traders cause trouble within the reserves, because of their thieving habits. In order to protect the natives against their activities, as well as against the activities of other traders, the government occasionally proclaims "closed districts" from which traders are excluded.

1. *Administration*

Under Foreign Office control, the Protectorate was divided into seven provinces (excluding the coastal strip), each in charge of a sub-commissioner, and each was divided into districts administered by collectors and sub-collectors, who were in charge of Europeans and natives alike.[1]

This general system of administration prevailed until 1924, when, because of the growth of European areas, a change was made and resident commissioners were appointed to administer European affairs in ten extra-provincial districts such as Naivasha and Nakuru. They correspond directly with the Colonial Secretary, the administrative head of the government. The remainder of the country is divided into seven provinces,[2]

[1] *Report on the East Africa Protectorate,* Cd. 1626 (1903) p. 11.

[2] Until recently, there were eight provinces, but in 1924 the province of Jubaland was ceded to Italy. In the secret Treaty of London, in 1915, it was provided that Italy could "claim some equitable compensation, particularly as regards the settlement in her favor of the questions relative to the frontiers of the Italian colonies of Eritrea, Somaliland, and Libya, and the neighboring colonies belonging to France and Great Britain." In fulfilment of this pledge, in 1924, the British Government finally ceded to Italy the Juba province south of the Juba River, which is suitable for the cultivation of cotton. The text of the treaty is printed as a schedule to the Anglo-Italian Treaty Act, 1925, 15 & 16 Geo. 5, Ch. 9. The Italian Government undertakes in this treaty that if at any time it shall desire to abandon all or any part of the territory thus transferred, it shall offer the same

each in charge of a senior commissioner responsible to a Chief Native Commissioner.[3] These provinces are in turn divided into twenty-six native districts, each in charge of a district commissioner, who is responsible to the senior commissioner of the province. The Estimates provide for one hundred and twelve administrative officials or one official for about every 22,300 people.[4] The ratio is much smaller than in other British colonies, and would indicate that a comparatively large European population demands administrative attention and also that a firmer control over the native is needed in a White Settlement colony than in a native state. The absence of well organized native groups also makes direct administration necessary. A commissioner has a limited judicial power over both Europeans and natives, the extent of which depends upon whether the Governor has bestowed upon him the powers of a first, second, or third class subordinate court.[5]

Resembling in this respect the natives of other parts of East Africa, the natives of Kenya are divided roughly into the Bantu and the Nilotic peoples. The leading Bantu peoples are the Kikuyu and the Akamba.[6] The natives inhabiting the Kavirondo reserves are divided into the Ja Luos, who are Nilotics, and the Bantu. The Giriama, a Bantu tribe inhabiting part of the Coast Province, revolted against the government in 1914.[7] The leading Nilotic people are the Masai, a pastoral and warring tribe, to whom the Nandi, the Lumba, and the Kamasia are related. These tribes usually have important religious leaders called Laibons at their head.

When the Europeans occupied this territory, they found no native

to the British Government upon such terms as may be just. In event of differences as to the terms of transfer, the question shall be referred to arbitration in accordance with the provisions prescribed by the Council of the League of Nations. The provisions of this treaty affecting the Sultan of Zanzibar are discussed in Vol. I, p. 271.

[3] Designation of Officers Ordinance, 1921, *Ordinances,* 1921, p. 5. There is apparently no ordinance establishing the office of Chief Native Commissioner or defining his powers. But by proclamation, the Governor has delegated to this officer the Governor's duties in connection with the administration of the Masters and Servants Ordinance, the Resident Native Ordinance, the Registration of Natives Ordinance, the inspection of labor, and native policy and administration generally.

[4] In Nigeria, there is one official for every one hundred thousand people, and in Uganda, one for every forty-nine thousand.

[5] Courts Ordinance. *Ordinances,* 1907, p. 36. The subordinate court of the first class may impose imprisonment not exceeding two years and a fine not exceeding two thousand shillings. A second class court may impose imprisonment for six months and a fine not exceeding four hundred shillings, while a third class court may impose imprisonment for one month and a fine not exceeding one hundred shillings. The third class court does not have jurisdiction over Europeans.

[6] The native customs of these people are discussed in C. W. Hobley, *Bantu Beliefs and Magic,* London, 1922; C. W. Hobley, *Ethnology of A-kamba and other East Africa Tribes,* Cambridge, 1910; Routledge, *With a Prehistoric People, cited.* G. St. J. Orde Browne, *The Vanishing Tribes of Kenya,* Philadelphia, 1925.

[7] Cf. Vol. I, p. 373.

states such as exist in Uganda. Except for a few groups governed by outstanding chiefs like Karuri, among the Kikuyu,[8] the Bantu villages were loosely governed by Councils of Elders. Because of this type of organization, the Kenya native administration has paid little attention to ethnic considerations. Thus it has divided up the twenty-six native districts which embrace the native reserves into five hundred and twenty-two locations, in many cases without regard to tribal boundaries.

2. *Native Headmen*

In administering these locations, the government makes use of headmen who are usually members of well-known native families, appointed after consultation with the Councils of Elders concerned.[9] In numerous cases, these headmen have no traditional authority; neither do they have judicial power, nor collect taxes. Their principal work is to maintain order and transmit instructions from the administrative officials to the people. Kenya thus follows a policy of direct administration.[10]

Until recently, these headmen have been paid sums ranging from two hundred and forty shillings to eighteen hundred shillings a year—sums which, according to the headmen, are entirely inadequate to meet their needs, particularly as some of them employ out of their own funds a number of sub-headmen and clerks. The financial strain has been so great that many of them have been tempted to make illegal exactions. In order to eliminate this temptation, the government increased salaries in 1926. The plan is to group locations under an over-headman, who will receive from fifty to one hundred shillings a month. Even these rates are low in comparison with salaries to native chiefs in other British territories.[11] At present, the Kenya Government changes headmen about to fit administrative needs and, as we shall see, it does not follow the principle of hereditary succession in appointing them.[12] In establishing the native district councils, the administration has also ignored tribal differences. Thus in the case of the native councils for the Kavirondo reserves, the govern-

[8] *Report on the East Africa Protectorate,* Cd. 1626, p. 7.

[9] The powers of these headmen are laid down by the Native Authority Ordinance, 1912. *Ordinances,* 1912, p. 94. They are obliged to maintain order; they may make arrests of suspected natives whom they must take within twelve hours to the district commissioner for trial; they may compel the attendance of natives at tribunals; and they may issue orders at the advice or suggestion of the administrative officer on such subjects as the manufacture of native liquor, drinking bouts, the cultivation of poisonous plants, etc.

[10] Under the Native Authority Ordinance, the Council of Elders may be appointed as a collective headman of a location. This was done in the case of a Masai location in Uasin Gishu; *Gazette, cited,* 1923, p. 339.

[11] Cf. Vol. I, p. 578.

[12] Cf. Vol. I, p. 363.

ment in one case created a body having a Bantu majority and a Luo minority, and another body with a reverse state of affairs.

While the government justifies this policy on the ground that hereditary chiefs are unknown to Kenya tribes, one has the feeling that the Kenya Administration has not studied native institutions with a view to using them as a basis of administration to the extent that Tanganyika, Nigeria, and the Gold Coast Administrations have done. On the contrary, the Kenya Government has rejected the appeals of native groups for the recognition of paramount chiefs. Natives in the Kavirondo reserve have made such a request in regard to Chief Mumias; some of the Masai have made a similar request, while the Luo people have asked that the government recognize a chief of their selection. In the past, there have been several important chiefs, such as Kinanjui and Karuri, among the Kikuyu people. But the government has not granted them any more legal authority than more humble headmen. Despite the agitation among the Kikuyu for some recognition of their tribal or national existence, these people are divided at the present time into half a dozen administrative districts.

If the natives really want a paramount chief, there is no reason why they should not have one—except the political reason of "divide and rule"—of dividing peoples in order to weaken them for the purpose of preventing the growth of native organizations which may present a united front to the whites. If such is the policy of the Kenya Administration to-day, it is defeating itself, since in preventing tribal development, the government is indirectly encouraging the natives to enter into detribalized combinations such as Harry Thuku started,[13] combinations whose chief purpose of existence, unlike that of a tribe, is opposition to Europeans.

The goal of the Kenya Government is not the goal of the Nigeria, Gold Coast, or Tanganyika systems, but rather, to quote the acting Governor, "a Native Administrative Service, which will afford opportunities for the more intelligent and capable Headmen to rise by grades and by scales of salary." He continued: "The number of Headmen fit for admission to such a service is, at present, limited, though as education spreads throughout the Reserves, the numbers will certainly increase. It is likely that this Colony will then be faced with the problem in its Native Administration as to whether the Headmen should be drawn from the class of Chief with territorial influence, whose claim to office will be based on his authority over the natives in his reserve and on his inherited position, or from the young men who have received an education at the Mission School, and who have acquired a knowledge of Swahili and

[13] Cf. Vol. I, p. 374.

possibly of English. It should be our object to utilize both classes and find employment for them in Government." [14]

Kenya is no more likely to be successful in this system of administration, which differs from that of most other British colonies for reasons which are discussed elsewhere,[15] than are the French. From the standpoint of the welfare of the natives and the protection of the whites against growing native indiscipline, which a strengthened tribalism would tend to forestall, the Kenya Administration should seriously consider the desirability of placing locations, headmen, and councils upon a tribal basis.[16]

3. *Native Courts*

The second feature of native administration in the Kenya reserves is the Native Court, which usually consists of a Council of Elders appointed for this purpose by the government under the Native Court Rules of 1913.[17] Councils of Elders thus recognized have jurisdiction over disputes in regard to property having a value up to two thousand shillings. They may try petty criminal offenses arising out of native law and custom, provided they do not impose punishment which involves mutilation, torture, etc. They may impose fines not exceeding five hundred shillings, and confinement for six months in a government prison, upon a warrant signed by the district commissioner. Administrative officers may revise any case decided by the Council of Elders. All fees of court go to the elders, in the form of compensation, but fines go to the general revenue of the government.[18]

[14] *Address of the Acting Governor,* E. B. Denham, August 11, 1925, Legislative Council, p. 15.

[15] Cf. Vol. I, p. 717.

[16] In its memorandum to the East Africa Commission, the Kenya Missionary Council said: "'Divide and rule' may have been the correct action in the early days of the British occupation, but we think that weaknesses of division have been fully demonstrated, both in pre-British and British history of the tribes of Kenya. What is wanted now is consolidation. The stereotyping of existence of small detached tribal communities such as, for instance, pertain in the Kavirondo country cannot be done without permanently weakening the life of Africans as a whole."

The Council also asked that the native laws be published not only in English but in Swahili. It declared: "Again and again also have the scales been weighed against the Natives through the fact that the publication of all the laws is in English. Chiefs have thus been placed most unfairly at a disadvantage in their dealings with District Officers. Arbitrary orders based on no legal Ordinance or interpretations thereof have all the force of a legal ordinance, when those to whom the orders are given cannot check them by reference to the written law. And the people labour under the same disadvantage in receiving orders from a Chief that the Chief labours under in receiving orders from a District Officer. We, as Missionaries, have had to protest on occasion, on the basis of our knowledge of the powers which could lawfully be exercised by an official. These protests would have come more fitly from the Chiefs and people themselves."

[17] Rules under Section 10, Courts Ordinance, 1910, *Gazette, cited,* 1913, p. 130.

[18] Whenever the district commissioner is satisfied that part of the fine according to native law and custom should go to the native as compensation, he may thus

The composition of these native courts varies according to custom. In the Kavirondo reserves, they are known as Monday courts from the day on which they sit, and every elder is entitled to be a member. Sometimes sixty natives form a court or *Baraza.* In order to facilitate business, cases are frequently referred to smaller committees which report back to the open Baraza. Any person in the audience can interrogate the parties, and decisions are made by a show of hands—in much the same way as the courts of the Athenian democracy. A register of cases for each court is kept in Swahili by an educated clerk, and is inspected by the district commissioner who may transfer or revise native cases as he sees fit.

As a rule, there is a native court in each of the five hundred and twenty-two locations in Kenya—which has made the problem of control difficult. Consequently, attempts have been made to reduce the number of native courts, which has led in the Kikuyu reserve (Fort Hall) to the establishment of a regular *giama,* or native court, for every five or eight locations. In the South Kavirondo reserve, twenty-seven petty tribunals have been consolidated recently into three central tribunals.[19] Likewise, native courts of appeal are being created. Such a court has been established at Kisumu for the Central Kavirondo reserve, and another has been instituted at North Kavirondo. The latter court is composed of fifteen elders, three from the location of each of the parties in question; three each from two other locations; and three from the court of first instance.

These native tribunals hear an immense number of cases. In 1924, the native courts in Central Kavirondo decided 3372 civil cases and seven hundred and nine criminal matters. One hundred thirty-one appeals were taken to the native appellate court at Kisumu, of which the baraza allowed fifty-six. Eighteen appeals from the baraza were taken to the district commissioner, who upheld the baraza in fifteen cases. The district commissioner therefore changed the decisions in only three cases. If an administrator were obliged to wade through four thousand cases a year, he would go crazy from impatience and fatigue. While these courts give satisfaction to the natives, generally speaking, complaints have been made against the present system of paying elders by court fees on the ground that it leads to bribery. Among the Kikuyu, it has been a time-honored custom for each party to give the elder a gift, called the *ngoyma,* a practice which has been abused. A step forward would be taken by paying a number of judges regular sitting fees, as is done in Nigeria.[20]

dispose of it. "Native law and custom" means the law and custom of the community over which the Council of Elders is authorized to exercise jurisdiction.

[19] *Native Affairs Department, Annual Report,* 1923, p. 10.

[20] The Department of Native Affairs publishes an interesting paper in English and Swahili, called *Habari.*

4. *Native Councils*

The third institution of the reserves is the Native Council, one of which is being established in each native district. Each council is composed of the district commissioner (who acts as president) and natives (some of whom are appointed directly by the Governor, and others of whom are nominated by native barazas). These members serve for a term of three years. The councils, which meet quarterly, may pass resolutions, subject to the approval of the governor, for the "welfare and good government of the native inhabitants" of the area on matters of purely local native administration, such as food and water supply, outspans, cattle dips, roads, bridges and culverts, public health, the recruiting of labor for public purposes, the use of land, education, markets, agriculture, and livestock. Violations of resolutions are liable to a penalty of imprisonment for not more than two months or to a fine of one hundred and fifty shillings.[21] The council is also empowered to levy a local native rate, the proceeds of which constitute a native fund, expended on the native community. In the Kavirondo areas, the rate is one shilling per head.[22]

In addition to this local rate, the fund receives rents from mission and trading sites in the reserves, which bring in about four thousand pounds a year, collective fines, and also monies from a former native trust fund.[23] It is desirable that the fines of native courts should also go into these funds, rather than to the general government. The budget is drafted every year by the district commissioner, who usually prepares the agenda of the council meeting. If the Estimates, which provide for expenditures upon education, mills, etc., within the reserves, are approved by the council, they are sent to the provincial commissioner, and then to the Chief Native Commissioner. They are finally approved by the Governor-in-Council. Expenditures are audited by the auditor of the colony.[24]

Two-thirds of the members of the council constitute a quorum. "The President may disallow any question or motion which in his opinion is undesirable in the public interest." [25] By the end of 1925, sixteen of

[21] Native Authority (Amendment) Ordinance, *Ordinances,* 1924, p. 91.

[22] Some councils have attempted to collect "cesses" or taxes from natives belonging to the group concerned, but living outside the district. As such cesses fell upon the European labor supply, the settlers protested. At the Convention of Associations, in the fall of 1926, Governor Grigg promised that no exactions outside the reserves would be allowed.

[23] Native Trust Fund Ordinance, *Ordinances,* 1921, p. 131. Ordinance 2 of 1925 empowered the government to transfer these funds to the councils. According to the balance sheet of 1924, these funds, which were obtained from collective fines, etc., contained total assets of 332,866 shillings. *Gazette, cited,* 1925, p. 1107.

[24] Local Native Funds (Accounting) Rules, *ibid.,* 1925, p. 365.

[25] Local Native Councils (Procedure) Rules, *ibid.,* 1925, p. 432, para. 10.

these councils had been established.[26] In many places, such as Kyambu, Fort Hall, South Nyeri, and Meru, the councils have a majority of government-nominated members and a minority of members nominated by the native barazas. In other cases, the "elected" members constitute the majority, as in the Masai Council, which is composed of fourteen official headmen and twenty-two baraza members; the North Kavirondo reserve, which has twenty-eight government members and fifty-three baraza members, and the Central Kavirondo Council, with nineteen government and fifty-three baraza members. In the South Lumbwa Council, government and baraza members are evenly divided.

The methods of nominating baraza members vary. Sometimes a baraza is attended by twelve hundred people. In the Fort Hall reserve, the candidates for election to the council, each wearing a large number, sit before the district commissioner, who is seated on a platform. People then file between the candidate and the commissioner, touching the three men they wish to elect. The men are tallied according to the number they bear. This system is still rudimentary and some natives complain that chiefs control the voting. But in the Fort Hall Council, nine out of the twelve elected members are mission boys; only three are conservative old chiefs, one of whom is a witch doctor. At council meetings, the mission boys are more timid than the chiefs. Some of them are, however, "nationalistic" in the sense that they feel so strongly that tribal existence should be preserved that they oppose even the abolition of such vicious customs as female circumcision.

At a recent session of the Fort Hall Council, a system of registration of births and deaths was adopted—an almost revolutionary measure in view of the past attitude of natives toward such matters. The council also agreed that at the time of marriage dowry should be registered in terms of shillings—a measure which will prevent the countless disputes which arise in native courts over the value of the dowry, which is usually paid in sheep or cattle. The council also discussed proposals in regard to the prohibition of sugar mills and to the control of the maize trade. At one of its early meetings, the Kavirondo Council abolished the custom of burning the hut of a deceased man following the funeral, and of passing over his widow to her husband's brother. Two years ago, officials would have said that natives could not possibly discuss these subjects. As a result of these councils, they are intelligently discussing them to-day. By itself, the government could never have installed a system of birth or death registration, because of the tremendous native opposition to outside interference with these vital affairs. But through the medium of a council, the govern-

[26] *Gazette, cited,* 1925, pp. 504, 520, 585, 776, 902, 1014.

ment may explain the advantages of these proposals to the natives. When a native council adopts these proposals, they gain the support of the leaders of native opinion—a support which would be absent if the government attempted to apply these regulations without consulting such a body.

While the councils from the administrative standpoint thus perform a helpful service, their primary importance in an inter-racial community is that they serve as a peaceful outlet to native sentiment in regard to the policies of the European administration. For the time being, these councils will serve as a safety valve for native feeling. But for this very reason, they may early become effective centers of native opposition to European rule. They will eventually demand a share in the actual administration of the government. Kenya may well study the Tanganyika and Nigerian method of satisfying this demand by the introduction, modified to suit local circumstances, of the principle of indirect rule. The first step in this direction would be to recognize paramount chiefs where it is possible, and to vest in them some real judicial authority.[27] As at present organized, the Kenya councils will probably continue as advisory bodies, full control over the funds remaining in the hands of European officials who preside at all council meetings. In order to develop native responsibility, it would be much better to transfer these funds to a real native authority. Whether or not this step is taken, the Kenya native funds plan will not perform its highest service until the government turns a certain proportion of native taxes into these funds as the Government of South Africa has done.[28] At present, as we have seen, natives must, in addition to making a contribution to the general government, pay a local rate to improve their reserves. This system seems scarcely equitable, and will set narrow limits to the financial benefits which these funds may bestow.

There are a number of native organizations independent of government control in Kenya to-day. The southern Kikuyus have an active association which, while it has remained loyal to the government, has presented repeated memoranda on land and other questions. The East Africa Association, founded by Harry Thuku, as a dissident offshoot of the Southern Kikuyu Association, still exists and is in communication with its former leader. Perhaps the most interesting of these associations is the Kavirondo Welfare Association, organized and supervised by Archdeacon Owen. This Association attempts to develop communal life in the reserves by the construction of demonstration maize mills, etc., while it does not hesitate to take questions affecting native rights into courts. There is a disposition

[27] The reasons for this type of policy are discussed in detail in other sections. Cf. Index—Native courts.

[28] Cf. Vol. I, p. 114.

on the part of the administration to feel that since the establishment of the district councils, these private associations should come to an end, and that their work can be performed by the government and missionaries. Yet the councils are so much under official control that they do not serve as complete mirrors of opinion. The Association fills a place in Kenya as useful as that of a political party in a European state.

5. *Native Obligations*

Three definite obligations are imposed on the natives living in the Kenya reserves: (1) taxation, (2) free labor for communal purposes, (3) compulsory paid labor for public purposes. Every native male over the apparent age of sixteen and also every widow is liable to a hut or poll tax, the rate of which gradually increased from two rupees in 1903 [29] to three rupees in 1910,[30] and to sixteen shillings in 1921.[31] It was reduced to six rupees, or twelve shillings, in 1923. The Masai, however, still pay a pound because of their great wealth in cattle.

Since each hut is liable to a separate tax, a husband must pay a tax for each wife. If, in order to evade additional taxes, a husband crowds more than one wife into a hut, he is nevertheless liable to a separate tax. In Kenya, a widow is obliged to pay a tax on the hut she occupies, despite the fact that in native law it is owned by her son or other descendant of her husband—a fact which has led to a good deal of criticism from the natives. The practice of the government is, however, to remit the taxes of those unable to pay. Natives not liable to a hut tax pay a poll tax of the same amount. Partly because of the fact that this levy is a hut and not a poll tax, probably the majority of the natives in the reserves have more than one tax to pay. In order to avoid double taxation, many natives and their friends advocate the abolition of the hut tax in favor of a poll tax alone, such as exists in Uganda.[32] Others believe that the hut tax should be retained since it is a tax on polygamy and, roughly speaking, hits the rich man harder than it does the poor man.

It is now the practice of one brother to stay at home and keep the family gardens, while another brother goes into the town or to European farms long enough to earn tax money for the whole family—which, in the case of taxes for two brothers, would be the equivalent of two or three months' wages.[33]

[29] Hut Tax Regulation, *Ordinances, cited,* 1876-1902, p. 117.
[30] Native Hut and Poll Tax Ordinance, 1910, *Ordinances,* 1910, p. 4.
[31] Proclamation No. 86, *ibid.,* 1921, p. 50.
[32] Cf. an article by Archdeacon W. C. Owen, *East African Standard,* June 3, 1921.
[33] Under certain circumstances, the government allows the tax to be paid in produce—a privilege granted today only to nomadic tribes along the Abyssinian

Unlike the practice in Uganda and other British colonies, the collection of taxes in Kenya is in the hands not of the headmen, but of the district commissioners. These commissioners, assisted by native "hut-counters," prepare a tax roll containing the name of each hut owner and the number of his wives and huts. When tax-time comes, district commissioners visit different centers in the district where the people have been collected by the headmen.[34] When the tax is paid, individual receipts are issued and the names are checked against the individual tax-roll. This work takes each district officer three or four months a year. In 1925, the administration in North Kavirondo tried the experiment of having two chiefs collect taxes in their locations. The experiment is said to have worked well, and its trial elsewhere should be seriously considered as it would be an excellent means of imposing a controlled responsibility upon native officials, while it would relieve district officers of a tremendous amount of work.

The question of what the Kenya native receives in return for this money is discussed later.

The second obligation imposed upon the Kenya native is unpaid labor. Under the Roads in Native Reserves Ordinance, 1910, free labor may be required from all able-bodied males for the construction and maintenance of boundary beacons, mounds, roads, and bridges.[35] Likewise, under the Native Authority Ordinance,[36] each headmen may require able-bodied men to work in the making or maintaining of any water course or other work constructed or to be constructed for the benefit of the community. But apparently a native cannot be obliged to work more than six days a quarter, or twenty-four days a year under both ordinances. Most of the roads in Kenya reserves are constructed and maintained by this type of unpaid compulsory labor. Inasmuch as the people are working for their own community, the system may be theoretically justified. It is, however, capable of abuse. While only males are legally liable for this labor, in Kenya women and children have been called out, sometimes by chiefs, and sometimes by administrators.[37]

frontier. If the tax is not paid by April first of each year, a native may be convicted by distress; and in default of distress, the court may order his imprisonment not to exceed three months. Certain exemptions may be made on account of age, infirmity, and poverty.

[34] Collection of Taxes and the Duties of Hut Counters and Headmen, Rules under the Hut Tax Ordinance, 1910, *Gazette, cited,* 1913, p. 58; amended, *ibid.,* 1920, p. 55.

[35] *Ordinances,* 1910, p. 43.

[36] Section 7 (h), Native Authority Ordinance, *Ordinances,* 1912, p. 95.

[37] One case was stated by the Kenya Government (Circular 89, December 14, 1922,) as follows: "A regrettable case has recently occurred in which an Administrative Officer has issued an order purporting to be made under the Native Authority Ordinance which resulted in large numbers of women and children being required to carry large loads of grass for a considerable distance, for which they

This unpaid labor is not exacted from natives living outside of the reserves. But in southern Kikuyu where the reserve boundaries coincide with European farms, all labor on roads in the reserves and through the settled areas is now paid, owing to complaints of European farmers. This is a cause of complaint of the Fort Hall natives who still render unpaid labor. Some of these natives have resorted to the amusing and intelligent expedient of entering into a labor contract with other natives, and filling out registration forms required by the government each month so that they may claim exemption! The period of service under this system is about twice that required by the prestation system in the French colonies, and the work is not restricted, as in the French system, merely to maintenance. Moreover, any kind of free labor tends to be inefficient and wasteful. For these reasons, the Labor Commission in 1912 and the Kenya Missionary Council in 1925 recommended the abolition of free labor.[38]

In the third place, a Kenya native is liable to the obligation of performing paid labor, for not more than sixty days in any one year, for porterage of government officials on tour and for the transport of urgent government stores, and also for the construction and maintenance of the following works of a public nature: (1) roads, bridges, and waterworks, (2) railways, (3) government buildings, (4) harbor works, wharves, and piers, (5) telegraph and telephone systems, (6) such other works as the government may declare to be of a public nature.[39] Before utilizing compulsory labor for any of these purposes except for the porterage of officials and urgent stores, the local administration must first obtain the sanction of the Secretary of State—a sanction which must be sought for a specified work and for a specified period.[40] In explaining these restrictions, the Secretary of State said in 1925 that the extent to which compulsory labor for public purposes should be utilized is "limited by the degree in which those who are thus compelled to give their labour understand

received very inadequate payment and no food." The circular called the attention of officers to the despatch of the Secretary of State in regard to compulsory labor, and said that "severe disciplinary measures" would be taken if these instructions were not followed. Cf. also Circular No. 33, Native Affairs Department, 1924.

[38] The Labor Commission of 1912 was of the opinion "that this form of forced labour is wasteful, that work without pay is liable to create a distaste for work altogether, and that the results are of little general practical value." It went on to say: "It is, therefore, recommended that roads and other public works in Reserves should be constructed by labour paid at the market rate under competent supervision by a technical Department." *Report, cited,* p. 333.

Archdeacon W. E. Owen, among others, has made a similar proposal. *East African Standard,* December 11, 1920.

[39] These limitations were imposed in an amendment to the Native Authority Ordinance, 1922, as a result of the White Paper of 1921. Cf. Vol. I, p. 335.

[40] Cf. Vol. I, p. 373.

the social utility of the works on which they are employed." He went on to say:

"However necessary for the development of the Colony the works to which he is put may be, it is not to be expected that he will readily appreciate their necessity when he is called upon to take part in them far outside the limits of his tribal territory; and there will be no mitigation on this account of the distaste and resentment naturally produced by the use of compulsion. . . . The standard of work under any system of compulsion will naturally be inferior to that of voluntary workers; and in addition the fact that compulsory labour is available tends to discount enterprise and progress by diverting attention from the possibilities of labour-saving machinery. Moreover, in the case of natives such as those of Kenya, in whom it is desired to encourage habits of industry, I fear that the result of any widespread association of labour with the sense of oppression caused by resort to the compulsory system may outweigh any educative influence which might otherwise be effected by inducing the natives to offer their labour upon terms sufficiently attractive to them." [41]

Consequently, in the case of the Uasin Gishu Railway, the Colonial Office laid down the requirement that only four thousand laborers could be conscripted for railway construction at a time; while it definitely refused to grant permission to conscript labor for work at the Kisumu docks. It also insisted that conscripted labor should be paid the same rate as voluntary labor.[42]

Under regulations, the government has exempted from the obligation to perform compulsory labor ten different classes of natives, such as headmen, natives actually working under contract, teachers and clergymen, and natives *steadily* [43] engaged in a trade, in business, or in agriculture. Under the ordinance, natives who have been "fully employed in any occupation" for three months out of the preceding twelve are also exempt. While this clearly applies to natives working for European employers, it is not clear whether it applies to natives working for themselves three months out of the year in the reserves. In the despatch already cited, the secretary of State for the Colonies said: "In the selection of the individuals for compulsory labour efforts should, as you say, be made to pick out the non-workers. By 'non-workers' I refer, of course, not merely to those able-bodied males who have not engaged in work for wages outside their reserve, but to the class which has neither undertaken such work nor has shown willingness to produce economic crops for export from the

[41] Despatch of February 6, 1925, *Compulsory Labour for Government Purposes*, Cmd. 2464, p. 16.

[42] The treatment of government labor has already been discussed in Vol. I, p. 354.

[43] My italics.

land in the reserve." While the administrative official clearly cannot conscript a native working for a European, these instructions grant him a great deal of discretion which may be used to discriminate against the native farmer who may not work "steadily" in the reserve and thus indirectly result in leading natives to seek European employment to escape government exactions.

In 1924, the Kenya Government conscripted about 25,500 men for a total of 241,195 days for public purposes. About fifteen thousand of these men were for the use of the administration, apparently for porterage.[44]

Such are the obligations of the Kenya native: a tax of twelve shillings, which many natives must pay two or three times, supplemented by a council rate; the obligation to perform twenty-four days of free labor a year, and under certain circumstances to perform sixty days of paid labor a year—a maximum liability of three months' public service. In addition, the native is "encouraged" to go out and work for the European settler and to develop the land which remains at home. Nevertheless, the average European in Kenya believes that the native lives an indolent life. It should be reiterated that the Europeans, the Asiatics, and the natives in European employment escape all of these obligations except the obligation to pay taxes.

Kenya officials assert that the obligation to perform compulsory unpaid labor is seldom enforced to the maximum limit of twenty-four days. If this is so, the Roads Ordinance under which the natives are made liable for this period could without practical difficulty be repealed. In all fairness it should be pointed out that the Secretary of State for the Colonies imposes more strict control upon the conscription of labor for public purposes in Kenya and Uganda than he imposes in any other territory in Africa. In Tanganyika, the administration may freely conscript labor without securing prior consent.[45]

6. *Native Opposition*

Following early trouble with the Somalis, the government was obliged to suppress a revolt of the Nandis in 1905. Just before the World War, a Bantu tribe near the coast, the Giriama, revolted when officers attempted to move them out of the area north of the Sabaki river. They had been driven south of the river years before by the Galla invasion but had gradually returned. The East Africa Commission expressed the opinion that this move was caused by a desire to secure land for European estates. It appears that this opinion was, however, erroneous, inasmuch as there are

[44] *Native Affairs Department, Annual Report,* 1924, Appendix "E."
[45] Cf. Vol. I, p. 467.

no such estates in the area vacated. Dr. Leys expresses the opinion that the tribe was moved in order to make more labor available for the coast.[46] Administrative officers assert that the move was made in an effort to bring the tribe under closer administration and to get it to return to land which it had always held since the Galla invasion; and that the revolt occurred because of the indiscreet methods of the officer in charge.

The Masai, as we have seen, have also caused some trouble.

The greatest excitement of all in Kenya, however, was caused by a native named Harry Thuku. In the midst of the financial and economic depression in Kenya in 1921, the settlers decided, as a retrenchment measure, to reduce native wages one-third.

During this period Kenya was experiencing difficulties with its currency, at that time the Indian rupee. When its value rose from 1s. 4d. to 2s. 4d. the government attempted to stabilize it at 2s. Thereafter the price fell to 1s. 4d., which led to complaints that capital had been confiscated. European over-drafts at the bank were automatically increased fifty per cent. Following unsuccessful attempts to control the price of the rupee, the government substituted the florin, and from January, 1922, it adopted the East Africa shilling which has the value of an English shilling, but is divided into a hundred cents. These readjustments, together with efforts to reduce the value of local money, which need not be discussed, led to further unrest among the natives, who could not understand the fluctuation in the purchasing power of the wages which they received.

Moreover, taxes were now raised from twelve to sixteen shillings; the registration system was put into effect; and government commissioners talked of taking away native land. Meanwhile the government had started or intensified its policy of labor "encouragement," particularly of women and children for coffee estates. Prompted by these exactions, a native called Harry Thuku, formerly a government employee, and a native of questionable moral character,[47] formed an East Africa Native Association, which held protest meetings throughout the reserves, sometimes attended by as many as five thousand natives.[48] It is believed that Thuku was under the influence of and financed by local Indians. At one meeting,

[46] Leys, *Kenya, cited,* p. 131.

[47] It is understood that Thuku had served a term in prison for forgery and that he had been excommunicated from the church of which he had been a member.

[48] It appears that Thuku originally belonged to the South Kikuyu Association which had been established by missionaries. But he withdrew because of jealousy and disagreement with the policy of that association. At that time, the South Kikuyu Association limited its activities to the southern part of the province. Thuku went north where he got a hearing, which he probably would not have received had the original Kikuyu Association embraced the whole of the province.

Thuku, who became more and more violent in his criticism, urged the natives to throw all their *kipandis* into a motor lorry and dump them in front of Government House. The leaders in the movement made not only a political but a religious appeal. In one communication, native Christians were urged to pray for Thuku and his elders who "have been set apart by our God to be our guides in our present condition of slavery which we knew not . . . before the Europeans came into this our country of East Africa." The prayer continued: "Also remember how that our God brought the Children of Israel out of the house of bondage of King Pharoah. . . . And to Him let us pray again, for He is our God. Also let us have faith, since in the eyes of our God there is no distinction of white or black. All are the sons of Adam and alike before Him, Jehovah, our living God. Also remember how that Goliath was unable to hurt David when David was a child and not yet full-grown. Nor could Saul hurt David, for David was chosen by Jehovah our God. . . . Thou, Lord Jehovah, our God, it is Thou Who hast set apart to be our Master and Guide Harry Thuku; may he be the chief of us all." Of this invocation the Chief Native Commissioner said (in 1922) ". . . The whole tenor of the prayer is to stimulate enmity between Black and White. . . . This I consider highly seditious." [49]

Apparently because of this "seditious" teaching, the government arrested Thuku in March, 1922, under the Removal of Natives Ordinance of 1909 [50] which enables the Governor to deport a native conducting himself so as to be dangerous to peace and good order from one part of the protectorate to another without making specific charges against him. But instead of taking him to the permanent jail, located in an impregnable position outside of town, the authorities put Thuku in the Nairobi police quarter guard. In the evening, a crowd of natives, numbering about two thousand, gradually accumulated in front of the guard. At the order of the resident magistrate, some of the natives went home, but in the morning the crowd was greater than ever. Rickshaw boys, cooks, and government employees all deserted and came to the demonstration. Meanwhile, leading natives had an interview with the Governor's deputy, as a result of which they urged the natives at the jail to disperse. They would probably have done so had it not been for native prostitutes in front who harangued the men to stay. The crowd then surged forward toward the forty native *askari* guarding the jail, which led the police officer in charge to telephone for the King's African Rifles. Meanwhile a native agitator

[49] *Native Disturbances in Kenya,* Cmd. 1691 (1922) pp. 5-6. For similar native movements, cf. Index—native revolts.

[50] *Ordinances,* 1909, p. 51.

tore down a white flag, which led a European police captain to grapple with him. In the mêlée, the captain stumbled and fell, and the *askari,* who had been continuously on duty for the last eighteen hours, thinking their officer had been attacked, fired upon the crowd without orders, killing eighteen natives. At the magistrate's inquest, it was declared that while the shooting was regrettable, it was justified under the circumstances.[51] Thuku along with several other leaders was deported to Jubaland. The government employees who left their work to witness the demonstration were either dismissed or fined from two weeks' to a month's salary.[52] Since 1921, there has been no widespread native disaffection in Kenya. But at the meeting of the Convention of Associations in the fall of 1926, one representative (Major Hemsted) expressed the opinion that the natives would soon present an organized resistance to European labor demands—an opinion echoed by one writer in the local paper.[53]

Whether or not further trouble with the natives arises will largely depend upon government policy in the future.

7. *Inter-Racial Crime*

When a white community finds itself surrounded by another race of inferior civilization and standards of living, it unconsciously feels itself in danger. In this atmosphere of fear, an abnormal psychology is produced which drives men to action which, isolated, or separated from this racial environment, they would not take. When to this fear a conflict between economic interests is added, any such inter-racial community lives in a high state of nervous tension, which magnifies the friction points between white and black.

As early as 1905, the Colonist Association told the Secretary of State for Colonies: "As the country becomes more settled, as fences are erected and the savage finds himself shut out from the enjoyment of land which before he could roam over and enjoy, so will his resentment grow."

There is no doubt that native crime in Kenya has increased within the last few years. In his 1925 report, the Kenya Commissioner of Police states that crime grows in proportion to the extension of settled areas in the colony. While there were only four hundred and ninety-two serious crimes committed in 1925 in the native reserves where the vast majority of the natives live, 3,926 serious crimes were committed, mostly by natives, in the European areas. The report says that "house-breaking or burglary

[51] For the finding, see the *East African Standard,* April 1, 1922. And Cmd. 1691, *cited,* p. 15.

[52] "Nairobi Disturbances and Government Native Employees," Government Circular 22, March 27, 1922.

[53] Cf. Vol. I, p. 341.

is one of the offences against property to which the native who has come into contact with civilisation in the towns of the Colony is becoming increasingly addicted. . . ." It goes on to say that "Gambling in its simpler forms appeals strongly to the great majority of natives" and that the gambler most frequently degenerates into the thief. "The congregation in the larger townships of unemployed natives, many of whom may be regarded as detribalised, is accountable for the large proportion of offences against property which continue to be prevalent and to increase in urban areas. This type of native is outside tribal control, does not and will not work, and is the constant associate of prostitutes and of characters as bad or worse than his own. He is insolent and contemptuous of authority, and in fact is the native counterpart of the 'hooligan', that objectionable feature of the larger towns in England." Cases of house-breaking were reported to have increased from one hundred and ninety-three in 1924 to two hundred and sixty-one in 1925.[54]

The primary cause for the increase in native crime is, as the police report points out, the dissolution of old tribal law and the imposition upon disorganized native life of a new system which the native does not understand. European law, applied by a foreign government, has no hold over him except the hold of force. Natives will have little moral compunction in violating it [55] until it comes to be supported by native opinion.

Moreover, natives have frequently been victims of injustice in European courts. While they have been very lenient with European offenders against natives, they have, as a rule, been extremely severe with native offenders against Europeans.

It appears that the increased contact between the two races in Kenya has also led to an increase in the assaults on European women. One of the most vicious of these assaults was committed by a native at Kijabe in 1926 upon a European woman about eighty years of age. The Kenya settlers exercised remarkable restraint under circumstances which in the United States would have led to a lynching. Following this assault, legislation was introduced making rape a capital offense whether committed by white or black; but it is doubtful whether the possibility of the death penalty will deter a native otherwise bent upon crime.

The feeling of the European population in regard to the growth of native crime was illustrated by a resolution of the Executive Committee of

[54] The report published in *East African Standard,* February 26, 1927, p. 15. The report points out that the proportion of police to population in Kenya is one to 1148; while in the London Metropolitan Police Area, it is one to three hundred and sixty-seven. The proportion of murders to population in Kenya is one per one hundred thousand persons compared to four per one hundred thousand in England and Wales.

[55] Cf. Vol. I, p. 720.

the Convention of Associations which referred to the "grave situation arising out of the recent lamentable indications of the general moral deterioration of the native." [56] In October, 1926, the Convention carried a motion urging that an indorsement as to the nature of his offense should be made upon the registration certificate of a native who had committed a crime.

It is perhaps natural that in this tense atmosphere the government and some Europeans should come to believe that their best protection is in force. Throughout all the colonies of Central Africa, the military and police forces are composed of native soldiers commanded by European officers. Such is the case with the King's African Rifles and the police forces in British East Africa. But in a community where inter-racial feeling develops as a result of white settlement, there is a feeling, subconscious at least, that the natives will revolt against the whites and that in this revolt they will be joined by the native soldiers. In order to protect Europeans against this possibility, the governments of white settlement colonies believe that a European military organization should be established. These considerations have led South Africa and Rhodesia to adopt conscription for the white population. The same development is now taking place in Kenya. In 1905, the Colonist Association petitioned the Secretary of State that a "burgher" force of whites be established, a demand which the Europeans repeated in 1913. In 1921, the government introduced legislation [57] to this effect, which was passed by the Legislative Council, but which was vetoed by the Labor Secretary of State.

In November, 1926, the same bill was published for reintroduction in the Legislative Council; and a select committee of that body, which included six elected members, agreed that the principle of compulsory service was necessary "for dealing with internal disturbances." The Governor, Sir Edward Grigg, declared that the purpose of European conscription was to "give adequate mobility to the reserve companies of the King's African Rifles, should they be needed to maintain peace upon our frontiers." Europeans should serve along with Africans for this purpose. In January, 1927, the terms of a modified bill were published, which provides for the compulsory enrollment in the Defense Force of all male European residents between the ages of eighteen and fifty, both of whose parents are Europeans. Thus both Indians and natives are excluded. These conscripts are liable to render general military service "within the Colony for the defense thereof or for the protection of life and property therein." Each defense force district is organized to constitute a complete unit and is in charge of a district commandant and a local committee.

[56] *East African Standard,* June 19, 1926, p. 32.
[57] *Minutes of the Proceedings of the Legislative Council,* 1921, p. 139.

Every man liable between the ages of eighteen and thirty must undergo an annual course of training not exceeding a hundred hours; while men between thirty and fifty must undergo a course not exceeding twelve hours in the aggregate.[58]

It appears, however, that many Europeans in the towns, who constitute a more transient element in the population than the Europeans in the country, opposed this idea of compulsion. A mass meeting was held at Nairobi in December, 1926, at which a resolution was adopted protesting against the bill which was described as a "scandalous infringement of the liberties of Kenya settlers."[59] It is a case, apparently, where the government and the responsible Europeans wish to impose obligations upon the general European community, the members of which do not believe that inter-racial conflict will arise, but who insist that the government follow policies which, sooner or later, may lead to trouble.

8. *Poor Whites*

Another product of the inter-racial community has also begun to appear in Kenya—the Poor White—the unsuccessful European who cannot maintain the high standards established by the leaders of the community. Difficulties of educating European children on farms, which the Kenya Government is now trying to overcome, tend in a few cases, at least, to the production of illiterate Europeans whom the Director of Education recently called "White Negroes." A recent census showed that twenty-five per cent of the white children in the Nakuru district and eighteen per cent in the Naivasha district were growing up without an education. The Director said that if this state of affairs continued, Europeans could not "maintain the influence and prestige" of their race.[60] The activities of the Salvation Army in Nairobi would indicate that some Europeans are already on the border line.

This discussion of Kenya's native policy shows that Kenya is inclined to follow the example of South Africa rather than that of Tanganyika or of Nigeria. Instead of attempting to build up tribal institutions, Kenya has, with the best of intentions, instituted a system of advisory councils, without regard to tribal differences, through which natives may voice complaints. As long as a third of the able-bodied men are permanently away from home, it will probably be impossible to build up tribal institutions. It is possible that the very existence of white settlement makes

[58] For the statement of "objects and reasons" reprinted from the *Gazette,* cf. *East African Standard,* March 26, 1927, p. 9.
[59] *African World,* December 18, 1926, p. 344.
[60] Speech at Thika; *East African Standard,* January 9, 1926.

an anti-tribal native policy inevitable. If this is true, the contrast between white settlement territories and native states will become greater than ever. In the first, native groups will dissolve and their place will be taken by advisory councils under government control and by unofficial political associations which cannot possibly take the place in native life which the tribe formerly occupied and whose chief basis of existence will inevitably become racial. In native states, however, tribal institutions will remain intact and develop under conditions in which natives will be more concerned about relationships between natives than their relations with Europeans.

CHAPTER 24

THE DUAL POLICY

In West Africa, Uganda, and Tanganyika the British Government has made determined efforts to improve native agriculture for the purpose of increasing trade with Europe and of bettering the material condition of the natives themselves. Likewise, the leading colonial governments in Africa have done something to provide a medical service for the natives and to aid, directly or indirectly, educational development. But when a European in contrast to a native system of agriculture and industry is introduced into a colony such as Kenya, the efforts of the administration on behalf of these native enterprises are necessarily made more difficult. The government in a territory having a comparatively large and permanent white population must pay attention to European education and medical assistance—an attention which need not be as great in a territory where the white population is more limited and transient. In theory, therefore, less revenue in a white settlement colony should go to the natives than in a native state.

1. *The Doctrine of Trusteeship*

The extent to which the interests of natives in African territory may be subordinated to European interests is supposedly controlled by certain declarations of policy, some of which take the form of international engagements. As early as 1885, the British Government had pledged itself in the Act of Berlin to improve the moral and physical well-being of the native populations in Africa,[1] and in article 23 of the Covenant of the League of Nations the British Government promised to secure "just treatment of the native inhabitants" under its control. The most specific declaration to this effect came in 1923 at the time of the settlement of the Indian controversy when the British Government said:

"Primarily, Kenya is an African territory and His Majesty's Government think it necessary definitely to record their considered opinion that the interests of the African natives must be paramount, and that if, and when, those interests and the interests of the immigrant races should conflict, the former

[1] Cf. Vol. II, p. 889.

should prevail. Obviously the interests of the other communities, European, Indian or Arab, must severally be safeguarded. Whatever the circumstances in which members of these communities have entered Kenya, there will be no drastic action or reversal of measures already introduced, such as may have been contemplated in some quarters, the result of which might be to destroy or impair the existing interests of those who have already settled in Kenya. But in the administration of Kenya, His Majesty's Government regard themselves as exercising a trust on behalf of the African population, and they are unable to delegate or share this trust, the object of which may be defined as the protection and advancement of the native races. It is not necessary to attempt to elaborate this position; the lines of development are as yet in certain directions undetermined, and many difficult problems arise which require time for their solution. But there can be no room for doubt that it is the mission of Great Britain to work continuously for the training and education of the Africans towards a higher intellectual moral and economic level than that which they had reached when the Crown assumed the responsibility for the administration of this territory. At present special consideration is being given to economic development in the native reserves, and within the limits imposed by the finances of the Colony, all that is possible for the advancement and development of the Africans, both inside and outside the native reserves, will be done."[2]

Thus while the British Government has encouraged the white settlement of Kenya, it has also undertaken to promote the welfare of the native inhabitants—the Dual Policy of development. According to this policy, the government should encourage native along with European agriculture and fulfil the educational and health needs of the natives as much as those of Europeans. It appears that the suggestion of native agricultural development in Kenya first came from the Economic and Finance Committee in 1921, which urged the native production of maize as a temporary means of saving Kenya from bankruptcy. While the authors of this policy apparently intended it as a temporary measure, Governor Coryndon emphasized it as a permanent policy; and it has had the official support of the Secretary of State. The East Africa Commission declared that "the dual policy of increasing the quantity and quality of production on the native lands *pari passu* with the development of European cultivation" is necessary, if only on financial grounds.[3]

While attention has been directed primarily to its economic aspects, the Dual Policy in its widest application means that the native inhabitants of a Kenya territory should have the same opportunities for social development as the inhabitants of any other territory. The European population should not be a handicap but rather a help to native advancement.

[2] *Indians in Kenya,* Cmd. 1922, p. 10.

[3] *Report, cited,* p. 181.

What steps have been taken in Kenya to carry this policy into effect? As we have seen, the British Government has established certain native reserves based with several exceptions upon the land which natives occupied at the coming of the white man. Likewise, it has in theory rejected the idea of compulsory labor for private purposes. These measures are, however, more or less defensive in the sense that they attempt to safeguard the economic independence of the native. What is the native to do with his land and with his time? What steps are being taken to improve his social and physical well-being? In other words, has the Kenya Government undertaken to carry out any obligations in regard to education, health, and the promotion of native agriculture? What does the native receive in return for the taxes he pays? The rate of native taxation in the territories of Kenya, Uganda, and Tanganyika is about the same. In Kenya, the rate is twelve shillings except in the case of the Masai, where it is a pound. Native councils may also impose local rates which are not considered in these calculations. In Uganda, the tax rate is somewhat higher—fifteen shillings for most districts. In Tanganyika, a hut and poll tax is imposed averaging about twelve shillings.

The per capita situation is as follows:

I

NATIVE TAXES AND EXPORTS

EAST AFRICA—1926

Colony	Native Hut and Poll Taxes	Average tax per Capita	Exports	Per cent Taxes to Exports
	£		£	
Kenya	516,250	Sh. 4	2,724,629	19.0
Uganda	401,500	Sh. 2.70	5,097,215	7.9
Tanganyika	691,000	Sh. 3.45	3,007,879	23.0

From this table, it is evident that despite the fact that the rate in these territories is about the same, the Kenya native is subject to a much heavier direct tax than the native of Uganda and to a somewhat heavier tax than the native of Tanganyika. This is partly due to the fact that in contrast to Kenya, where natives over sixteen must pay a separate hut tax for each additional wife, in Uganda a man over eighteen is liable only to a poll tax. It may also be due to more liberal exemptions in Uganda and Tanganyika than in Kenya.

How much of this tax money is directly returned to the native? In the first place, all of these governments expend certain sums on salaries of headmen or chiefs as follows:

II

PAYMENTS TO NATIVE AUTHORITIES, 1926

Territory	Salaries	Per cent of total native tax
	£	
Uganda	72,200	18.0
Tanganyika	125,590[1]	18.2
Kenya	32,000	6.2[2]

[1] This is the payment to native treasuries.
[2] 1926 Estimates. In all territories, payments to native interpreters, station hands, hut counters, tribal retainers, etc., are excluded from these figures.

Thus it is evident that Kenya returns a much smaller proportion of her revenue to native chiefs and headmen than do the other two governments, which is explained by the policy of direct administration and the absence of important chiefs in Kenya.

In the second place, all of these governments make certain expenditures in regard to education, medical work, and agriculture. We shall first examine the expenditures of the Kenya Government in regard to these subjects, without differentiating between amounts spent upon natives, Indians, and Europeans in comparison with expenditures in other territories.

III

EXPENDITURES UPON NATIVE WELFARE[1]

In EAST AFRICA in 1926

COLONIES	Agriculture, Veterinary, Forests		Education		Medicine and Sanitation		Total Welfare	
	Amt. per 100 persons	% of Expenditures	Amt. per 100 persons	% of Expenditures	Amt. per 100 persons	% of Expenditures	Amt. per 100 persons	% of Expenditures
	£	%	£	%	£	%	£	%
Kenya	6.200	6.75	4.249	4.62	7.512	8.18	17.961	19.55
Uganda	2.872	6.95	1.463	3.55	4.370	10.56	8.705	21.06
Tanganyika	3.595	8.38	1.609	3.76	4.680	11.92	9.884	24.06
Zanzibar	15.45	6.91	7.16	3.20	20.70	9.25	43.31	19.36

[1] Percentages of total ordinary expenditures

According to this table Kenya devotes a slightly smaller proportion of her revenue to agriculture and medical work than do Uganda and Tanganyika. Her per capita expenditures on native welfare are, however, about twice as high, but they must be divided between three main

racial communities while the expenditures in the other two territories go almost entirely to the natives alone.[4] In the following table, an attempt has been made to segregate expenditures upon the natives in Kenya from general expenditures, and then to compare native expenditures in Kenya, a white settlement colony, with corresponding expenditures in Uganda, a native state.

IV

NATIVE WELFARE EXPENDITURE—KENYA AND UGANDA

1926

	Kenya		Uganda	
	Expenditure in Pounds		Expenditure in Pounds	
	Amount	Per Hundred Natives	Amount	Per Hundred Natives
I. Agriculture	44,876[1]	1.75	74,011	2.36
II. Medical work	147,000[2]	5.74	137,029	4.37
III. Education	62,341[3]	2.43	46,085	1.47

[1] Total agricultural expenditure amounts to 113,999 pounds of which 24,676 pounds are "exclusively native." Upon the basis of the value of non-European to European agricultural exports, we have allocated the sum of 20,200 pounds as the native share in general expenditure which would bring total native expenditure to 44,876 pounds.

[2] Total medical expenditure is 195,959 pounds, three-fourths of which we have arbitrarily estimated as being expended on natives. There is no indication in government reports how this sum is allocated.

[3] Total educational expenditure is 110,623 pounds of which 54,941 pounds are ear-marked as "exclusively native". We have allocated the sum of 7400 pounds as the native share in general expenditure, again using as the basis of allocation relative value of non-European and European agricultural exports.

Thus Kenya makes larger per capita expenditures upon native medical and educational work than does Uganda. It spends less, however, in the promotion of native agriculture.

Properly to evaluate this work, one should also take into account the number of officers assigned to promoting the welfare of the native population along these lines, and the number of natives actually receiving these benefits. In the following table an attempt has been made to determine the number of natives served by each European officer in Kenya, Uganda, and Tanganyika.

Table V shows that there are more European doctors and government educators in Kenya in relation to the native population than in Tanganyika and Uganda.

Tables VI and VII show the number of natives actually served by the medical and educational departments in these respective territories.

[4] The heavy expenditures in Zanzibar are due to the extremely prosperous condition on this island which is a result of the clove trade, cf. Vol. I, p. 275.

V

NATIVE WELFARE PERSONNEL

BRITISH EAST AFRICA

1926

DEPARTMENT	KENYA			UGANDA		TANGANYIKA	
	Number of European Officers		Number of Natives Served per Officer	Total Number of Officers	Number of Natives Served per Officer	Total Number of Officers	Number of Natives Served per Officer
	Total	For Natives					
Veterinary Dept.							
Field Officers..	9	4	.....	10	.....	13	.....
Inspectors	21	7	.....	10	.....	25	.....
Total		11	233,000	20	157,000	38	108,000
Agricultural Dept.							
Field Officers..	16	11	.....	15	.....	18	.....
Inspectors	2	0	.....	10	.....	0	.....
Total		11	233,000	25	125,000	18	228,000
Medical Dept.							
Field Doctors..	71	43 [1]	.....	36	.....	51	.....
Assistants	34	21	.....	5	.....	21	.....
Total		64	40,000	41	77,000	72	57,000
Education Dept.							
Administrative Officers	7	4	.....	4	.....	3	.....
Teachers and Instructors .	101	23	.....	13	.....	38	.....
Total		27	95,000	17	185,000	41	100,000

[1] In the Medical Department, no classification of officers as European or Native could be found, so the figures presented were estimated to be in the same proportion to the total as in the Agricultural Department.

VI

NATIVE CASES TREATED BY GOVERNMENT SERVICES, 1923-1924

	Admissions to Hospitals	Treated at Dispensaries (outpatients)	Total
Kenya	25,990	163,603	189,593 [1]
Tanganyika	21,227	147,086	169,032 [2]
Uganda	16,731	239,745	246,476 [3]

[1] *Annual Medical Report*, 1925, Kenya, pp. 72, 74.
[2] *Ibid.*, 1924, Tanganyika, p. 72.
[3] *Ibid.*, 1924, Uganda, pp. 23, 24.

According to this table, Kenya admits a larger number of natives to government hospitals than do either Tanganyika or Uganda. The total number of cases treated in hospitals and dispensaries in Kenya is more than in Tanganyika, despite the fact that Tanganyika has several million more natives than Kenya. As far as dispensary work is concerned, Kenya is far behind Uganda.

Table VII shows the number of natives attending government and mission schools in the three territories, and the grants-in-aid made by these respective governments to mission schools.

VII

NATIVE SCHOOLS

	Government	Mission	Grants-in-Aid to Mission Schools 1925	1926
Kenya	1,683	42,071 [1]	£14,805	£27,723 [5]
Tanganyika	4,892	162,800 [2]		11,000 [6]
Uganda	53 [3]	172,600 [4]	10,800	22,500

[1] *Report of the East Africa Commission,* cited, p. 176. There are 21,071 in Assisted Schools; *Colonial Report,* Kenya, 1925, p. 22.

[2] Approximate, *Report, Education Department, Tanganyika Territory,* 1924, p. 48.

[3] In Makerere College.

[4] *Report, Education Department,* Uganda, 1925, p. 21.

[5] Includes Home Training and Child Welfare, and grant to Alliance High School, Kikuyu.

[6] In the case of Tanganyika grants to mission schools were made for the first time in 1926-27.

This table would appear to show that while Kenya is far ahead of Uganda in attendance of natives at government schools, it is considerably behind Tanganyika. It shows a much larger attendance in mission schools in Tanganyika and Uganda than in Kenya. But these figures are estimates only. The best judge of the attitude of respective governments toward mission education is shown by the amount of financial assistance they give mission schools. In this respect, Kenya is making larger grants than neighboring territories.

It seems clear that so far the Kenya Government has done more for native education than the Uganda Government, and that the Kenya Government has, in comparison with Tanganyika, done a great deal for its natives in the way of medical work. But Tables IV and V show that in the Agricultural and Veterinary Services for natives Kenya lags considerably behind Uganda and somewhat behind Tanganyika. While Tanganyika and Uganda provide a European veterinary officer for every 108,000 and 157,000 natives respectively, Kenya provides an officer for every 233,000 natives. Likewise while Tanganyika and Uganda provide

an agricultural officer for every 228,000 and 125,000 natives respectively, Kenya provides an officer for every 233,000 natives. Kenya's per capita expenditures upon native agricultural and veterinary needs are also smaller than those of Uganda.

It should be pointed out that Uganda is now making plans for rapid extension of educational work and that her large reserves will make possible great increases in the future, while expenditures in Kenya already appear to have reached their limit.[5] Nevertheless, the Government of Kenya deserves a great deal of credit for the efforts which it is making in regard to the advancement of health and education among its native population. It has done less in promoting native agriculture and animal husbandry for evident reasons. We shall now discuss in a little more detail the efforts of Kenya along all of these lines.

2. *Education*

The burden of native education has been carried in the past by the Church Missionary Society and by the Church of Scotland. While the former organization has aimed to cover as much territory as possible, the Church of Scotland Mission has concentrated its educational activities with a view to thoroughness, of which its schools at Kikuyu are outstanding examples.

Before the World War, it appears that the East Africa Government, along with other governments in Africa, paid little attention to the educational and medical needs of the African population. But in 1913, it did display interest in technical education by opening an industrial school at Machakos and by making a grant to missions of five pounds for each apprentice under indenture.[6]

Apart from this, the government itself did little for native education until 1924. But in that year, it enacted an Education Ordinance which lays down principles governing the relations between missions and government in regard to education similar to those in other British territories, and provides for the appointment of a Central Advisory Committee and district committees. The latter consist of representatives of the local native council, of European organizations, and of government nominees.[7] According to the report of the Education Department, "Up to the date

[5] For the time being, native welfare expenditures in Tanganyika also appear to have reached their limit. But it should be remembered that Tanganyika is a Territory which was ravaged by war for four years, and that the administration has been in operation for a period of only six or seven years.

[6] *Report of the East Africa Protectorate,* Colonial Report No. 791, 1912-1913.

[7] *Ordinances,* 1924, p. 96. This ordinance empowers the governor to impose compulsory education upon areas as he sees fit.

of the appointment of the Central Advisory Committee, African Education was rapidly reaching a condition that can only be described as depressing." [8] While "the position is by no means satisfactory now," the government has increased its grants-in-aid to the mission schools. It has also established government schools at five different centers.

Thanks partly to American support, the government has launched one of the most encouraging educational activities in Africa—the School for Jeanes teachers at Kabete. This type of school was first endowed by an American Quaker woman named Jeanes, for the purpose of training negro visiting teachers who spend several weeks periodically in a number of negro communities, assisting the local school teachers and housewives. The school at Kabete trains African supervisors of village school teachers.

The success of the Jeanes plan in Kenya will depend, however, upon whether or not the teachers on the spot have a foundation which will enable them to benefit by these visits. Educational officers in Uganda believe that for the time being, it is more important to train a few good village teachers than to train supervisors of mediocre village teachers. In any case, the Kenya experiment should be watched with great interest.

The government maintains four schools for European children, the attendance of which in 1925 was six hundred and twenty-six and the cost of which, excluding administrative expenses, was 26,247 pounds. Likewise, it maintains two schools for Indians having an attendance of nine hundred and thirty-three, and makes grants to four Indian schools having an attendance of eight hundred and eleven—or a total of seventeen hundred and forty-four. The cost to the government of Indian education in 1925 was 11,943 pounds. It maintains two schools for Arabs. The cost of Arab and African education, exclusive of administration expenses, in 1925 was 36,017 pounds.[9] In 1926, the government adopted the principle that each community should pay for its own education.[10]

While education in Uganda and Tanganyika is taking an agricultural turn, education in Kenya has been rather technical in character. The Education Department says that the system, "while offering the fullest opportunity for a gradual and reasonable development of Africans in accordance with their environment, must, at the same time, fit them for co-operation with the superior races. In other words, the activities of European, Indian and African must be carefully dove-tailed into each other." [11]

Many European settlers interpret this statement to mean that native education should not be literary or agricultural, but that it should primarily be technical for the purpose of training native artisans and crafts-

[8] *Annual Report, Education Department,* 1924, p. 23.
[9] *Colonial Report,* Kenya, 1925, p. 21. [10] Cf. Vol. I, p. 296. [11] *Report, cited,* p. 19.

men to take the place of the Indians upon whom the European population is now obliged to rely. Agricultural education would, however, increase peasant farmers and thus decrease the labor supply.

3. *Medical Work*

We have noted the medical estimates and the number of medical officers which they provide. The Kenya Government maintains twenty-six native hospitals in the territory, and a comparatively large medical staff. Despite present expenditure, there is not, according to the report of the Native Affairs Department, a single medical officer in the Kerio, Masai, or Coast provinces which have a combined native population of 326,500.[12]

Although Kenya employs more European doctors and maintains a greater number of hospitals than Uganda, she does not reach as many natives because of the under-development of native dispensary and maternity work. The improvement of this branch of the medical service of Kenya deserves serious attention.

From this survey, it is only possible to draw the conclusion that the Government of Kenya has been making just as earnest efforts in improving the health and in educating its African population as any other government in East Africa.[13] As far as these two subjects are concerned, the Dual Policy has been realized in fact; that is to say, the government has not slighted the needs of the natives because of the presence of a large European population. It is only fair to add, however, that there is little conflict for the moment between settler and native interests over education and medical work. Expenditures upon these activities come not from European but from native taxes. The improvement of the health of the natives means an improvement in their efficiency and an increase in their number. The education of the native, at least in technical subjects, likewise improves his efficiency as a workman so that the native may soon eliminate the Asiatic artisan. At the same time, any kind of education will increase the intelligence of the native and his sensitiveness to exactions, so that the more the Kenya Government stresses native education, the stronger the native will become in defending what he regards as his interests.

4. *Native Agriculture and Transport*

But the Dual Policy means also the development of native agriculture alongside of European agriculture. It is just here that one may expect a conflict between settler and native interests to arise. The settler is

[12] *Report, cited,* 1924, pp. 39 ff.

[13] Except for Zanzibar, which occupies a special position because of its great wealth.

dependent upon native labor; and it is logical to believe that the more the government encourages native agriculture, the smaller will become the native population willing to leave home to work on Europeans' plantations as wage-earners. Is the Kenya native given the same encouragement and assistance in the production and marketing of crops as the native of Uganda, Tanganyika, or West Africa?

In 1924, the East Africa Commission answered this question in the negative, as follows:

"Altogether there seems little doubt that the Department of Agriculture has in the past devoted most of its attention to the improved cultivation in European areas, and that, until the last three years, very little indeed was done to encourage native production. In Kikuyu district, one of the richest native agricultural districts in Kenya, with a population of 665,000, there are only two agricultural officers devoting themselves to native production, and one of these has to spend a certain amount of his time at the native agricultural training farm at Kabete. We were informed that, in the Kitui district of the Ukamba province, where there are 110,000 Akamba natives, the only assistance received from the Agricultural Department in ten years has been the issue of a few bags of seed. . . .

"The Animal Husbandry Department, which embraces the veterinary services, seems to devote the greater part of its time to the care of European cattle, and the setting of quarantine boundaries about native cattle areas where disease is known to exist. We were informed that a certain cattle area in one of the Ukamba districts has been in uninterrupted veterinary quarantine for not less than seven years. The Kitui Akamba possess as many or more cattle than all the European settlers in the country, but the district has received little attention from the department. It is alleged that the only activity of the department in this district was confined to the construction of a dipping tank for the station during the war, to facilitate the export of native cattle needed as rations for the troops. The tank is now abandoned and derelict.

"There is a feeling among the natives that the resources of the technical departments of the country, which are supported out of the general taxation, to which the natives contribute so largely, have been used too exclusively for the development of the European areas. . . ."[14]

Within the last year, this condition has been considerably improved. At the present time, the Agricultural and Veterinary Departments each have native sections. Nine European agricultural supervisors with about forty native instructors devote their time to native agriculture. Native agricultural apprentices are trained at two schools, while a number of native agricultural shows are held. In addition, five European veterinary

[14] *Report of the East Africa Commission,* 1925, pp. 155-156.

officers, eight stock inspectors, and ten native veterinaries look after native live stock.[15] The Veterinary Department has installed a number of testing and inoculating stations in the reserve to keep the traffic in cattle in and out of the reserve safe. Native stock is becoming so numerous that a bill called the Crop Production and Live Stock Ordinance has been drafted which authorizes the government to dispose of undesirable stock. While the purpose of the bill is supposedly to improve the quality of the stock, it is evident that such legislation might be administered in a way which would arouse native hostility.

Despite these efforts, even now the European personnel devoted to the promotion of native agriculture and husbandry is below that in Uganda and Tanganyika.[16] Partly as a result of the efforts of the Kenya Agricultural and Veterinary Services, the native agricultural exports increased from 176,000 pounds in 1922 to 480,300 pounds in 1924. Exports of maize increased from 73,000 to 130,000 pounds and those of hides and skins from 50,000 to 154,000 pounds.[17]

The leading native export crop is maize.[18] In the Kavirondo area, the cultivation of cotton is being started. In 1924, the Kenya Department of Agriculture distributed to native farmers in the reserves almost four hundred and ninety-five tons of seed, three hundred and twenty tons of which were cotton seed. While native agriculture has considerably increased since 1923, non-European agricultural production in Kenya is still small, as the following table shows.

VIII

VALUE OF NATIVE PRODUCTION IN 1925

Territory	Value in Pounds
Kenya	546,000[19]
Tanganyika	1,700,000
Uganda	5,000,000

Thus despite the efforts of agricultural officers, native exports are comparatively low because Kenya, unlike Tanganyika and Uganda, necessarily emphasizes production on European farms. It would appear that so far the Kenya Public Works Department has done little to develop a system of roads within the reserves, but has confined most of its activities to European areas.[20] The Kenya Government has not organized a Motor

[15] *Report,* 1924, *cited,* p. 15.
[16] Cf. Vol. I, pp. 473, 619.
[17] *Report, cited,* p, 29.
[18] *Annual Report of the Department of Agriculture,* 1924, p. 21.
[19] The total agricultural production of Kenya, in comparison with the production of the other territories, is discussed in Vol. I, p. 535. In 1926 the value of Native Production in Kenya declined to 476,100 pounds. *Agricultural Census,* 1926, p. 22.
[20] Cf. *Report of the East Africa Commission, cited,* p. 165.

Transport service, as have the Uganda and Tanganyika Governments to assist in the evacuation of native produce. At present, the native reserves rely for transportation largely upon the ox-carts of Indian *ndukas*. Until recently, railways were also constructed with the needs of European farmers rather than of natives in view. While the Fort Hall-Nyeri line now under construction has been built to serve the European community at Nyeri, it nevertheless passes through the Kikuyu reserve and will thus serve native interests.[21]

Another obstruction in the way of native production is the fact that the government makes it impossible for the Kenya native to produce coffee, hundreds of tons of which are produced by the natives of Tanganyika and Uganda, by the Coffee Plantations Registration Ordinance, which requires every coffee grower to secure an annual license costing thirty shillings.[22] Even if this sum were not prohibitive to a native grower, the district commissioners could refuse to issue a license. These restrictions have been imposed at the demand of European planters who fear native coffee growing will, through improper care, lead to the spread of disease and also to the stealing of coffee from Europeans. It appears that in this particular, the economic interests of the native are definitely subordinated to those of Europeans.

There are two types of coffee in East Africa: Robusta and Arabica. Robusta coffee is of inferior quality and grows without much attention, being virtually pest proof. This coffee is grown in large quantities by the natives in part of Tanganyika and Uganda. Arabica coffee is of fine quality and, because of its susceptibility to disease, requires expert attention. This coffee is grown by European planters in Kenya and Tanganyika, and by natives in part of Tanganyika. The Kenya Coffee Ordinance operates to prohibit the growth of both kinds of coffee by the Kenya native. If European fears justify the prohibition of the growth of Arabica coffee, it would appear only equitable that the natives be allowed to grow Robusta coffee on their land in the reserves—a proposal made by the Kenya Missionary Council in 1924. Moreover, the government should give natives more expert advice in the production of maize which would, to a certain extent, overcome the handicap from which they at present suffer in regard to coffee.

While inadequate transport facilities, lack of agricultural assistance,

[21] As far as existing railways in Kenya are concerned, 683 miles run through European areas, while 272 miles run through native reserves. While hitherto native areas have thus been slighted, an improvement has been made in the railways under construction. One hundred and thirty-four miles of such roads will traverse native reserves while ninety-five miles will traverse European land. *H. C. Debates,* April 13, 1926, Vol. 13, Col. 194.

[22] *Ordinances,* 1918, p. 9.

and administrative prohibition of coffee production explain why native agriculture for export is much lower in Kenya than in neighboring territory, perhaps the fundamental reason is that about thirty-five per cent of the men are at any one time away from the reserves working for European employers. The Kenya Missionary Council has stated: "The necessity laid upon the Colony to bring a wage-earning class of natives into being, has been the main cause of keeping back the production of the Reserves. . . . We think that, properly encouraged, production in the Reserves of 2,000,000 people will vastly exceed that of 100,000 males working on farms." It is difficult to see how a native can work for himself and for a European at the same time. Having induced natives living in the reserve to accept employment outside, it is probable that the Europeans will demand that the reserves be alienated to white farmers on the ground that they are not being used.

5. *Dual Policy and the Labor Supply*

The government, however, has worked out an ingenious theory that the greater the production in the reserves, the greater will become the labor supply of the Europeans. The theory apparently is that in working for himself, the native will develop habits of industry which will lead him to seek work on a European farm.

The East Africa Commission subscribed to this theory that increased native production does not necessarily mean a decreased labor supply,[23] and in his address before the Convention of Associations of October, 1926, Sir Edward Grigg stated: "Those tribes which are most industrious and efficient at home also send out the largest labor supply." He apparently had in mind the Kavirondo and the Kikuyu, but the fact is that these two groups constitute a majority of the total population of Kenya; moreover, they live in reserves which are both fertile and over-populated and which are close to European centers of employment.

These advocates apparently believe that a native can complete his own work in a few months, and then work the remainder of the time on a European farm. The immediate difficulty with this argument is that the planting season in the reserves comes at exactly the same time as the season for picking coffee on European farms.[24] The increase in native agriculture in 1925 may explain why the native labor supply declined eight thousand five hundred units during that year.[25]

The experience of the mines of South Africa and of the Gold Coast

[23] Cmd. 2387, *cited*, p. 167.
[24] Cf. *Native Affairs Department, Annual Report*, 1924, p. 49.
[25] *Agricultural Census*, 1925, *cited*, p. 21.

has been that increased native production automatically decreases the European supply of labor. A few miles away from Nairobi, this same phenomenon has been forcefully demonstrated in Uganda where, largely because of cotton production, some European plantations have been obliged to close down, and even the government has difficulty in getting labor.[26] It appears that Uganda's experience is now being repeated in Nyasaland.[27]

Moreover, if the native's standard of living increases, and if a native society develops in Kenya as it has developed in other parts of Africa, the natives will require more and more time to cultivate their own gardens. One cannot conceive of the peasants of France making an annual migration to Italy for the purpose of working on estates six months out of the year. It is reasonable to believe that the same forces which keep them at home will operate to keep the African natives at home if the policy of Dual Development is really carried out.

6. *European Opposition to Dual Development*

European settlers do not accept the government's optimism as to the effect of the Dual Policy upon their labor supply. The local newspapers print articles headed as follows: "Inherent Laziness of the Uganda Native," "The Cotton Menace in Tanganyika." [28] One farmer spokesman told the East Africa Commission that there had been "no diminishing supply [of labor] until the policy of native production was introduced." [29] A well-known merchant recently expressed the sentiment of the European community in a letter which said:

"If the Government persists in the scheme of intensive development in the reserves, what then? Under present conditions, labour is practically unavailable. Were the natives engaged in big agricultural pursuits in the reserves what chance would the European have at all, of securing labour? . . . Justice must be done to those who, after years of arduous labour and heart-burnings are now threatened with bankruptcy because, owing to lack of man power, they are unable to reap the harvest of their work. Therefore, lest Kenya fall into pitfalls similar to those which have overwhelmed Uganda, the problem of labour for the European and the development of the reserves must be taken in conjunction one with another, with a view to giving a square deal to all concerned. It is not enough to say that the native must take his share in the progress of the Colony by developing the reserves. He must also take his share in assisting the European, who has shown him the way, and has been chiefly responsible for advancing the country to its present stage of development." [30]

[26] Cf. Vol. I, p. 627.
[27] Cf. Vol. I, p. 253.
[28] *East African Standard*, November 25, 1924.
[29] *Ibid.*, November 15, 1924.
[30] S. Jacobs, "The Labor Problem," *ibid.*, October 23, 1926.

At the meeting of the Convention of Associations in October, 1926, the president said that it was a matter of speculation whether advancing the interests of the natives was going to defeat the second object of the Dual Policy—"the utilization to the fullest extent of this wonderfully fertile land for the benefit of mankind"—by which he meant the development of the country by the European settler.

In a debate on a resolution condemning the Dual Policy, speakers said that as a result of its application in the last few years, native men were simply carousing in the reserves. One speaker said that "practically the only end attained hitherto by the Dual Policy" was "the imposition on native women of a dastardly form of slavery."

Lord Delamere, however, shrewdly pointed out that the Dual Policy had led to the declaration of the governors that the native must work either in his reserve or outside. But as the machinery for making the native work outside was much stronger than that requiring him to work inside, the policy operated to the advantage of the settler. Upon Lord Delamere's intervention, the original motion was amended to the effect that "some drastic revision of the application of the Dual Policy is necessary." [31]

7. *Social Effects of the Kenya System*

While both officials and settlers have directed their attention primarily to the effect of native agriculture upon European labor supply, the social importance of this in contrast to the plantation policy is even more fundamental from the standpoint of the future of the natives of Kenya. It appears that the labor needs of European industry in Kenya are responsible for certain social conditions which are harmful to native development and which indirectly injure, from the standpoint of health and of crime, the European community. The Kenya Missionary Council, in its memorandum to the East Africa Commission, stated that, in its opinion,

> "The absence from home of contract labour is in large numbers of cases detrimental to the health and well being of that labour, and especially is this the case on the large plantations. . . . Diseases such as malaria are being increased in some Reserves as the result of the return of labour from malaria infected farms. Spirillar fever is also greatly on the increase and is largely due to the labour travelling to and from their homes to infected labour camps. The conditions of life away from their women folk, even though the morality is not yet high in the Reserves, is not such as to conduce to the well being of the labour while at work, and his return to the Reserve may cause the spread of syphilis and other diseases acquired outside. Further the necessity for married men, especially the younger men, spending long periods of time

[31] *East African Standard, Supplement,* October 30, 1926, p. 10.

away from home is not for the well being of that home or of the wife and children left behind.

"As to the question of the influence of the absence from the Reserves of so much labour on the growing of their food crops, we are of opinion that it certainly means more work for those who are left, who also have now to do the many tribal duties and Government work in the Reserves, and that this work increasingly falls upon the women and girls, who, it is generally admitted ought to have the burdens lightened and not increased. This being so, we think strongly that anything that militates against the welfare of the women and girls in the Reserves, must militate against the welfare of the tribe, and therefore of the country as a whole."

Government officials and others have pointed out with some pride that sixty per cent of the adult men of the most intelligent tribes in the colony are away from home working for Europeans. This means therefore that the most intelligent tribes are suffering the most injury. A Belgian commission has declared that only ten per cent of the able-bodied men can be permanently away from home without seriously injuring native social life.[32]

According to the present policy of the British government and of the British settlers, Dual Policy has come to mean that the native population of Kenya will receive an education and medical care equal to that anywhere in central Africa. It means that native laborers under European employment will be well-cared for and treated. But it does not mean that natives will be allowed to live their own lives and work on their own farms as they do in purely native states. As a result of the land and labor policies of the Kenya government, the majority of the men of the most intelligent tribes are permanently under European employment. Whatever the theoretical position of the government as to compulsion may be, the fact is that many of these men have little choice as to whether or not they work for Europeans. A growing land shortage will increase their dependence upon European employment.

No one can blame the settlers who have cut loose from Europe and taken up permanent residence in Kenya for demanding labor and for opposing any policy which will cut down the labor supply. At the same time, the British Government has declared before the entire world that the interest of the African in Kenya must be paramount, and it has pledged itself to the policy of Dual Development, a policy which should give to the native in Kenya exactly the same opportunities as he has in Uganda. There will always be a number of natives who will prefer to work for Europeans rather than for themselves. But if this number is insufficient

[32] Cf. Vol. II, p. 546.

to meet the needs of the Europeans who have settled in Kenya, the British Government should consider the advisability of buying out the holdings of those settlers who wish to sell.

The world will judge British Colonial policy not where it is strongest but where it is in danger of being weakest. It will judge it not in West Africa but in East Africa. All of the other colonial powers on the continent are closely watching British policy in East Africa in the hope of finding precedents which they may apply to their own territories. As a later chapter will point out,[33] the future of Kenya may control that of the entire continent.

[33] Cf. Vol. I, p. 539.

CHAPTER 25

THE DEMAND FOR SELF-GOVERNMENT

SINCE the days of the American Revolution, British colonists separated by great distances from the home country have sooner or later demanded the right not to participate in the home government, but to govern themselves—a demand which has been granted in the case of the six Dominions and of Southern Rhodesia.[1] The motives which have led the European inhabitants of these territories to make this demand are naturally present in Kenya to-day. Under "Crown Colony" government, the European inhabitant must submit to action taken in many cases without his approval, and in other cases even without his knowledge. The European community in Kenya has especially criticized the government for making land alienations to large companies or favored individuals, and for expending money for such purposes as the improvement of Government House at Mombasa, and the construction of a new Government House at Nairobi at a cost of eighty thousand pounds.[2] While some of these expenditures were approved by the unofficial members of the Legislative Council, some Europeans did not believe that a fully responsible Legislative Council would authorize such "extravagance." [3]

The European population demands responsible government for the same reasons as those which have led European populations to demand responsible government elsewhere in the Empire. In addition, some settlers demand this change so as to settle land and labor policies without regard to the qualms of the Imperial Government. A member of the Legislative Council told his constituents a few months ago: "You will never solve the labour problem until you have control of the country. When you have that, you will immediately solve the problem." [4]

1. *Convention of Associations*

In order to make their influence felt, the European settlers have formed a number of organizations, the first of which was called the Colonist

[1] The Irish Free State, which is self-governing, stands upon a different basis.

[2] This house is to shelter the Secretariat of the East Africa Conference and the Legislative Council.

[3] "Robbing the Hen Roost," *East African Standard,* February 20, 1926, p. 16A; also "Land Policy Secrecy," *ibid.,* November 6, 1926.

[4] Quoted (with disapproval) by an editorial, *ibid.,* November 27, 1926, p. 13.

Association, which came into existence in 1905. In a petition to the Secretary of State in that year, it demanded a long list of reforms and called attention to the "Native Menace."[5] Partly as a result of its efforts, the Legislative Council, with three unofficial members, was established in 1906. In 1910, Lord Delamere and Major Grogan, two outstanding figures in Kenya history, brought together a large number of farmer organizations into what was called the Convention of Associations.[6] This body has ever since wielded an important influence over the government. Before the War, it incessantly demanded elective representatives on the Council. To emphasize this demand, the nominated members declined to sit on the Council between 1913 and 1919. In the latter year the principle of representation was finally granted. The Convention usually holds its annual meeting just before the opening of the regular session of the Legislative Council. These meetings are ordinarily addressed by the Governor of the colony. In 1919, Governor Northey said: "The Convention of Associations seems to be your most representative body, and I shall hope to be invited to attend its future meetings," with any Heads of Departments or others desired, to advise and discuss, hear and put forward reasonable views." Department officials are now asked to attend and explain or defend their policies. The Convention passes resolutions virtually instructing the unofficial European members how to vote on measures before the Council. While the granting of elective representatives on the Council should have brought an end to the need for this body, it has continued to exist and to take repeated and pronounced stands upon every question of policy, whether it is a matter of native labor or of Asiatics.

The settlers of Kenya have not hesitated to use extra-legal means of getting their way. In 1907, Mr. Grogan before a large crowd in front of the Court House horse-whipped a native rickshaw boy accused of having insulted two European lady passengers by lifting the shafts of the rickshaw too high. Following his arrest, a hundred settlers swore, it was reported, to release Grogan should he be sentenced to imprisonment—a report which led the Governor to ask the Colonial Office to detain a war ship at Mombasa.[7] Grogan was sentenced to imprisonment

[5] House of Lords Papers, No. 158, 1907.

[6] One of the objects of the Convention is "to promote the political organisation of the Colony on lines consonant with the aspirations of the European Community. . . ." Each Association belonging to the Convention is entitled to send one delegate for the first twenty members.

Elected members of the Legislative Council are ex-officio members of the Convention. Cf. *Constitution and Rules, Convention of Associations,* Nairobi.

[7] At the trial, one of the accomplices of Grogan said: "As it has always been the first principle with me to flog a nigger on sight who insults a white woman, I felt it my bounden duty to take the step I did."

for one month, but he was not put in the ordinary jail, because of considerations of sanitation, but confined in a private home. Even so, this sentence was denounced by the *Times of East Africa* on the ground that it lowered the prestige of the white man among the blacks. The settlers held a mass meeting to protest against the sentence. On the other hand, Lord Elgin, the Secretary of State for the Colonies, said that it was clear that Grogan's action was a "deliberate defiance of settled order and government." The Secretary was bound to observe that "the commission of such flagrant acts of lawlessness and injustice as those of which the defendants in this case have been guilty is the surest way to provoke an outbreak. . . ." [8]

A year later, the settlers held a mass meeting to protest against the labor policy of the government. Following this meeting, a noisy crowd marched to Government House, where they called upon the Governor to resign.[9]

During the Indian crisis of 1920-1923, which came to a head over the question of elective representation on the Legislative Council, as well as over the ownership of land, the settlers threatened a revolution if their demands were not granted.[10] During this period, in 1921, Europeans assaulted the Rev. C. F. Andrews, the well-known missionary, who was visiting Kenya in regard to the Indian question.

Opposition to the imposition of an income tax was less picturesque, but more successful. In order to increase revenue to overcome the financial depression in 1920-1921, the Kenya Government raised the native poll tax to eight rupees, an increase which the Colonial Office supported only upon condition that increases on non-native taxes having an equivalent yield should be imposed. At this time, the only direct tax paid by the Europeans was a poll tax of thirty shillings a year.[11] Consequently, an Income Tax Ordinance was passed and went into effect in November, 1920.[12] Organizing themselves into a European Taxpayers' Protection League, most of the settlers flatly refused to pay or even to make returns, on the ground that they were already excessively taxed through the customs and the railway, and that they were on the verge of bankruptcy due to the depression—statements which appear to be true. In 1921, Lord Delamere unsuccessfully moved the repeal of the tax, and raised the question as to whether it was constitutional in a colony where there was no representative

[8] *Correspondence relating to the Flogging of Natives by certain Europeans at Nairobi,* Cd. 3562 (1907).
[9] Cf. Vol. I, p. 330.
[10] Cf. Vol. I, p. 293.
[11] Non-Native Poll Tax Ordinance, 1912; *Ordinances,* 1912, p. 87.
[12] Ordinances, 1920, p. 125. Cf. also *Minutes of the Proceedings of the Legislative Council of East Africa,* second session, 1920, pp. 31, 95.

government.[13] The Economic and Finance Committee, then studying the financial situation of the colony, recommended the abolition of the tax [14]—a suggestion in which the Secretary of State for the Colonies finally concurred, provided that an equivalent source of revenue could be found in import duties, particularly on wines and luxuries consumed largely by Europeans. At a special session of the Legislative Council, the Attorney General introduced bills for these two purposes, which were passed.[15] The only direct tax paid by Europeans today is a poll tax of thirty shillings. Indirect taxes are, however, high—amounting to about thirty-five pounds per European. In comparison Indians pay total taxes estimated to be about six pounds, while natives pay a per capita sum of about six shillings.

2. *The Elected Members*

The dominant settler point of view has been presented to the government by the elected members in the Legislative Council who call themselves the Democratic party. For a time, the elected members, regarding themselves as His Majesty's Opposition, objected as a matter of course to most government proposals. But so damaging to the reputation of Kenya did these divisions become, that several years ago there was established what was termed "Government by Agreement," in which the elected members agreed that they would suppress opposition and work with the government so as to present a united front to the outside world. But according to the local press, the government took advantage of this policy to discuss matters "in an atmosphere of most regrettable secrecy," and thus deprived the members of their independence.

The control of the European minority for a time was increased by the procedure in regard to the Estimates. While these Estimates are prepared by the Chief Secretary, they must be voted by the Legislative Council; and the practice has been to refer the Draft Estimates to a select committee having an unofficial majority where items of expenditure and of revenue have been unmercifully scrutinized, and as a result of which government proposals have occasionally been modified. This practice was changed in 1926, in favor of debating each item of the Estimates in a committee of the Council. Under the old system, departmental heads individually were responsible for expenditures, and they fell into the habit of asking for supplementary votes. Under the new system, the Governor will be directly responsible, and departmental officers must confine their

[13] *Minutes of the Proceedings, cited,* 1921, p. 73.
[14] *First Interim Report, Economic and Finance Committee,* 1922, p. 3.
[15] *Minutes of The Proceedings of the Legislative Council,* May 25, 1922.

expenditures to a definite sum.[16] What effect the new procedure will have upon unofficial influence it is impossible to forecast. Periodically, members move the reduction of salaries of unpopular officials, notably the Chief Native Commissioner. During the régime of General Northey, the official members were given freedom to vote upon measures as they liked. As a result, several of them voted with the settler element and in some cases defeated government proposals.

Moreover, most of the important commissions appointed to investigate such matters as land policy and native labor have had a settler majority; settlers have been appointed members of road boards and district councils, and attesting officers under the Masters and Servants and Registration Ordinances; and it appears that some of them will be made magistrates. A plan for organizing self-government in the municipalities is now being studied. Through these various means, the European element in the country has had a definite influence on policy, particularly in regard to land, labor, and taxation.

While in South Africa the European population is large enough to make possible a vigorous division of opinion upon native policy, the number of Europeans in Kenya is as yet so small that they usually speak upon native matters with a united voice. Consequently, a Governor finds himself quickly isolated whenever he follows a line which does not conform to their immediate interests. To stand up against the glare of a united European opposition, a Governor must possess an extraordinary amount of character. Unfortunately, in the opinion of a number of observers, Kenya has had a line of remarkably weak Governors until the coming of Sir Edward Grigg, and even the present Governor has been careful to make utterances which to a great extent conform to settler beliefs.

What the Convention of Associations is aiming at is responsible government. As a first step, it demands an elective majority on the Legislative Council. In the platform of the elected members seeking re-election to the Legislative Council, announced in the fall of 1926, was the first plank: "To press by any constitutional means for a European elected majority over all parties in the Legislative Council."[17] Going even farther, the Economic Commission in 1919 suggested that the present department heads should form themselves into a cabinet responsible to the Legislative Council.[18] The Convention of Associations in 1921 asked that Kenya should be represented at the Imperial Conference, the membership of which is now limited to the Dominions and India. More recently, the Convention declared that an East African Federation was out of the

[16] Cf. editorial, *East African Standard,* October 16, 1926, p. 11.
[17] *Ibid.,* January 1, 1927, p. 35.
[18] *Report, cited,* p. 22.

question "until our own position as a civil state is completely safeguarded by changes in our Constitution which will enable us to decide for ourselves the desirability or otherwise [*sic*] of such a step." In 1926, the Convention of Associations passed a resolution to the effect that in view of the "economic, political, and social growth of this Colony," such a measure of self-government should be granted "as will enable its affairs to be guided by those persons who are familiar with its conditions and are ultimately responsible for its future." [19] In November, 1926, *The East African Standard,* asserting that the present system was unworkable, asked that the example of Natal and of Southern Rhodesia be followed in Kenya.[20]

In the winter of 1927 discussion both in Kenya and in England over responsible government or at least an elected majority became widespread.

The attitude of the Colonial Office toward this aim of responsible government has wavered. In January, 1922, Mr. Churchill, Secretary of State for the Colonies, declared: "We do not contemplate any settlement or system which will prevent Kenya becoming a characteristically and distinctively British Colony, looking forward in the full fruition of time to responsible self-government." But in the White Paper of 1923, the government declared:

"It has been suggested that it might be possible for Kenya to advance in the near future on the lines of responsible self-government, subject to the reservation of native affairs.[21] There are, however, in the opinion of His Majesty's Government, objections to the adoption in Kenya at this stage of such an arrangement, whether it take the form of removing all matters affecting Africans from consideration in the Council, or the appointment of the Governor as High Commissioner for Native Affairs, or provision for a special veto by the Crown on local legislation which touches native interests. . . .

"His Majesty's Government cannot but regard the grant of responsible self-government as out of the question within any period of time which need now be taken into consideration. Nor, indeed, would they contemplate yet the possibility of substituting an unofficial majority in the Council for the Government official majority. . . . Meanwhile, the administration of the Colony will follow the British traditions and principles which have been successful in other Colonies, and progress towards self-government must be left to take the lines which the passage of time and the growth of experience may indicate as being best for the country." [22]

[19] *East African Standard, Supplement,* October 30, 1926, p. 11.
[20] Editorial, *East African Standard,* November, 1926, p. 16C. The argument indicated that the writer had in mind responsible government.
[21] As has been done in Southern Rhodesia. Cf. Vol. I, p. 219.
[22] *Indians in Kenya,* Cmd. 1922, p. 11.

A later Secretary of State, Mr. L. S. Amery, declared at an East African dinner that it was impossible "that for all time that prosperous community, representing the most virile and active elements of the race, would be content to be subject to Crown Colony rule." [23] It would appear, therefore, that the present government is inclined to be sympathetic towards Kenya's demands. But it has reserved final decision until after the report of the special Commission which proceeded to East Africa in December, 1927.[23a]

3. *Protective Tariffs*

The unofficial element has already been strong enough to secure the adoption of a policy to develop the principle of economic independence in Kenya, by means of a protective tariff. Following the abrogation, in 1920, of the tariff limitations imposed by the Treaty of Berlin,[24] the Economic and Finance Committee recommended that certain protective duties be imposed in order to encourage infant industries. In a special session of May, 1922, the Legislative Council adopted a protective duty of thirty per cent on wheat in order to protect local wheat growing and milling.[25] Apparently as a result of this duty, imports of foreign wheat declined from seventy-eight thousand hundredweight to forty-eight thousand hundredweight a year, while the acreage in wheat increased from seven thousand eight hundred to twenty-one thousand—an increase in acreage sufficient to cover only half the decrease in imports. Consequently, the price of wheat and of flour rose. Alarmed at the outcry against the increased cost of flour, the wheat farmers and millers attempted to arrange to keep wheat below a fixed maximum price, an attempt which soon came to an end.[26] The prohibition of the export of wheat was also suggested. The Economic and Finance Committee investigated the question, at the request of the government, and in the spring of 1926 reported that for the time being the protective duties should be maintained. Nevertheless, the *East African Standard* declared that "eventually they [the people] are bound to look the problem in the face and ask why locally grown wheat and locally milled flour is unable to compete in price with an overseas article which has to bear heavy charges before it reaches East Africa. . . ." It went on to say: "We feel that the wheat industry has been allowed to develop almost haphazardly. . . ." [27]

[23] *The* [London] *Times,* June 26, 1925, p. 16. [23a] Cf. Vol. I, p. 515.

[24] The Treaty of Saint Germain merely provides that tariffs should be non-discriminatory.

[25] *Minutes of the Proceedings of the Legislative Council* (extraordinary session), May 25, 1922, pp. 2 and 8.

[26] *East African Standard,* January 30, 1926.

[27] "The Wheat Industry," *ibid.,* April 19, 1926.

This same protective principle has animated Kenya in adopting high duties upon sugar, lumber, and foreign butter. The result has been that some individuals have invested large sums in expensive sugar machinery, only to find that the cost of production is much higher in Kenya than in other parts of the world, and that they can keep above water only with the aid of protective life buoys. The cost of building has increased greatly since the imposition of the lumber duty.

The success of Kenya in extending the principle of protection to Tanganyika and Uganda is discussed in a later chapter.[28]

4. *The Fear of Revolt*

So determined has the European population been in its demands, that some Englishmen, both in the Colonial Office and out, incline to the position that the only way in which Kenya can be prevented from getting its way is by sending out the Guards—an impossible policy since no Britishers would shoot down another Britisher for the sake of a black population. Consequently, the Kenya population must be given responsible government. Those who have this fear underestimate the power of the administration and overestimate the importance of the Kenya population. If an extremity should arise, the British navy could blockade Kilindini harbor with a single ship and stop all mails and trade between Kenya and Europe, thus reducing the insurgents without firing a shot. The difficulties of the past have been due to the policy of the Colonial Office to "trust the man on the spot" whenever the Secretary of State finds himself in an unpleasant position. Now this is very unfair to the man on the spot, who is subject to pressure which does not disturb, at least to such an extent, the more impersonal and distant Colonial Office.

5. *Kenya Finances*

In considering the question as to whether responsible government should be given to a European community of twelve thousand people, there are factors having nothing directly to do with race which must be taken into account. In the case of Southern Rhodesia, the Colonial Office laid down the principle that the local population must give evidence that they could finance a government of their own. This test should also be applied to Kenya. As a matter of fact, the question of paying its way has so far been Kenya's chief worry. Until 1913, it received an

[28] A number of resolutions have been passed expressing regret that the international obligations of the British Government, notably the Treaty of Saint Germain, prevent Kenya from adopting duties discriminating against non-British goods—the principle of Imperial Preference.

annual grant-in-aid from the home government—totalling nearly three million pounds. In addition, the home government financed the construction of the Uganda Railway, expending, to March 31, 1913, a total of five and a half million pounds. According to the Secretary of State for the Colonies, "No payment has been made by British East Africa in respect of these advances. . . ." [29] Down until 1919, Kenya paid its administrative deficit out of the profits of this railway.[30]

In 1922-23, conditions reached the stage where government expenditures exceeded exports in value, a situation which led the Governor to appoint an Economic and Finance Committee which made a number of recommendations for the reduction of government expenditure. Between 1919 and 1923, the territory accumulated a net deficit of 621,366 pounds.[31] The European population of the colony now literally forced the government to make drastic reductions of expenditures which declined from 2,137,600 pounds in 1923 to 1,861,500 pounds in 1924. In the latter year, the net revenue exceeded expenditure by 250,000 pounds.

In 1925, it exceeded expenditure by 90,500 pounds. At the end of 1925, the net surplus of the colony stood at 149,723 pounds, while in 1926, conditions continued to improve. Thus Kenya has experienced a remarkable financial recovery, and it appears that for the time being revenues have no difficulty in meeting expenditures.

At present the per capita revenue of Kenya is much greater than the per capita revenue of either Tanganyika or Uganda. Kenya receipts from customs average about 200,000 pounds more than those of Uganda and Tanganyika. This difference is probably due to the heavier consumption of luxuries, particularly spirits, by the large European population in Kenya. On the other hand, the per capita expenditures and loan obligations of Kenya are much heavier than in the two other territories.[32]

To provide for the needs of a European population and for other purposes, Kenya has also been obliged to resort to loans the service on which

[29] He added that "no such payment is contemplated under the Acts." But cf. Vol. I, p. 408, 61 *H. C. Debates,* April 23, 1914, col. 1086.

[30] Cf. Vol. I, p. 522.

[31] *Colonial Report,* Kenya, 1923, p. 10. The revenue including railway net revenue and the expenditure excluding railway expenditure for a period of five years is as follows:

Year	Revenue £	Expenditure £
1917-18	898,936	1,021,178
1918-19	1,014,783	1,036,785
1919-20	1,139,690	1,438,115
1920-21	1,942,222	1,940,397
1921 (nine months)	1,291,679	1,661,672

First Interim Report, Economic and Finance Committee, October 21, 1922, p. 2.

[32] Cf. Vol. I, p. 534.

now takes about a quarter of its revenue, in comparison with services of Uganda loans something amounting to about two per cent of the revenue.[33]

In order to improve transport facilities to meet certain obligations, Kenya in 1921 made an unprofitable six cent loan of five million pounds, secured on the revenue of the Uganda Railway.[34] After paying off past obligations, only about half of the capital remained available for productive investment.

In addition to the five million pound loan, the Kenya Government also received in 1924 a share in a loan of three and a half million pounds from the Imperial Government, which is interest free until 1929.[35] Interest and sinking fund charges will thereafter amount to two hundred and ten thousand pounds a year.

Two other loans, one for 3,000,000 pounds, and a second for 2,762,360 pounds, have been authorized but not yet raised.[36] When issued the interest charges of these two loans will amount to 288,118 pounds. By 1929 the total interest charges on these four loans will thus be more than 863,000 pounds which is about 37 per cent of the Kenya estimated revenue for 1926 of 2,315,808 pounds, a sum which includes "reimbursements" from the Uganda Railway of 273,000 pounds. Most of this sum is earmarked for the service of the 5,000,000 pound loan, about half of which was expended on harbor and railway purposes.

Kenya is faced with the prospect of even heavier obligations in the future. In 1926, Mr. Amery, Secretary of State for Colonies, stated that in 1934 the question of repayment of the capital cost of the original Uganda Railway and of Kenya's outstanding share of the operations against German East Africa, provisionally set at 1,405,016 pounds, "will come up for consideration." If Kenya assumes this burden, it will increase her debt to the extent of five million pounds, the annual charges on which would probably amount to three hundred thousand pounds a year.[37]

In order to develop British East Africa as a whole, the East Africa Commission, which visited these territories in 1924, proposed that the Imperial Government guarantee a transport loan of ten million pounds, the interest of which it should bear for a period of five years.[38] While

[33] Cf. Vol. I, p. 534.

[34] *Ordinances,* 1921, p. 122.

[35] *Ordinances,* 1924, p. 127. Part of this loan was used to construct an extension of the Uganda Railway into Uganda.

[36] "Colonial Loans," Statement submitted to Legislative Council at the March, 1927, Session, Colony and Protectorate of Kenya. A summary of the present loan charges is printed on p. 422, Vol. I.

[37] *H. C. Debates,* July 13, 1926, Vol. col. 223. Part of the cost of the Uganda Railway would supposedly, however, be assumed by the Uganda Government.

[38] After the first five years, it proposed that interest and sinking fund charges should fall on the transport services in the first instance and in case their revenues

the home government agreed to the principle of the loan, it stipulated that the local territories should pay interest from the beginning.

Kenya's share in this would amount to 3,200,000 pounds, of which 1,800,000 pounds were to be expended in developing Kilindini harbor, and 1,400,000 pounds on further railway construction.[39]

These proposals were vigorously opposed by practically all of the unofficial population of Kenya on three grounds. In the first place, Europeans naturally believed that, with the increased burden which the service of these loans would impose upon the budget, more taxes would be necessary. In the second place, the construction of further railways and other public works would absorb labor which the farmer sorely needed. In the third place, the acceptance of an Imperial loan would fasten the control of the British Treasury upon the colony at a time when it wished to move toward self-government. In debating this loan in the Legislative Council in the fall of 1926, Lord Delamere moved that harbor and railway construction should be financed not out of the Imperial loan, but out of a loan raised by Kenya herself. Kenya was the only colony in East Africa constitutionally able to borrow money under the Colonial Stocks Act. The other territories were protectorates. The Imperial Loan should be used to build railways which would open up the highland areas of Tanganyika and link together the other parts of East Africa. When the Governor assured him that no steps would be taken to use the loan without consulting the Council, Lord Delamere withdrew the amendment.[40]

Although the financial situation of Kenya has vastly improved since 1920-1923, the strain upon the budget will again increase when the interest on the transport loan of 3,500,000 pounds becomes due, and if the colony contracts further transport loans, and is obliged to repay the cost of the Uganda Railway and of the East Africa campaign. As long as Kenya remains a Crown Colony, the British Treasury stands behind it to bolster up its credit. As a self-governing country the financial sound-

proved insufficient, on the revenues of the various East African territories. Ten years from the date of issue the East African transport systems and territories could begin to repay in addition the amount advanced by way of interest from the Imperial Exchequer during the first five years. *Report, cited,* p. 182.

[39] The Schuster Committee, appointed by the Secretary of State for the Colonies to advise upon the expenditure of this loan for the different territories concerned, recommended the expenditure of 1,400,000 pounds upon extensions of the Uganda Railway through Uganda territory. Cf. *Report of the East African Guaranteed Loan Committee,* July, 1926, Cmd. 2701, p. 39.

[40] *Minutes, East African Standard, Supplement,* November 6, 1926.

Major Grogan savagely and inaccurately attacked the financial policy of the government in a fiery speech. Cf. also the resolution of the Nakuru settlers, *East African Standard,* January 26, 1926, p. 39.

The Nairobi Chamber of Commerce also expessed considerable alarm at the expenditure decided upon by the government under the colonial loan proposals, *ibid.,* January 16, 1926.

ness of the colony on international money markets would be much more difficult to maintain.

Moreover, responsible government means government by men on the spot, and it is doubtful whether the present population of Kenya, because of its small size and the absence of a leisure class, can find a sufficient number of men for the work which responsible government would involve. Should an elected majority be granted and not responsible government, it would not be difficult to secure sufficient settlers to take their place on the Legislative Council. But an elected majority having no final control over the administration would result only in deadlocks and the endless difficulties which such a system of divided responsibility entails.

6. *Racial Considerations*

So much for the question of finance and administration. Racial considerations remain. Unlike Southern Rhodesia or South Africa, Kenya has an Indian population outnumbering the whites two to one. The political difficulties and the tense feelings which arose out of the Indian demands for elective representation on the Legislative Council [41] would be repeated and intensified in the case of responsible government. So far, the experiment of Indian and European members on the same Legislative Council has not been regarded by the Europeans as a success. It is doubtful whether Europeans would consent to the presence of several Indian ministers in a cabinet; and it seems certain that the government and people of India, not to mention the Indians on the spot, would protest violently against any scheme which ignored the local Indian population.

Even if the European-Indian problem should be solved, the native question would remain. In demanding responsible government, the twelve thousand Europeans are demanding not only the right to govern themselves, but the right to govern two and a half million natives. The Europeans depend for their existence upon native labor, and many of them wish to acquire native land. Hitherto, the Colonial Office has served, if imperfectly, as an umpire between the parties. Responsible government would remove the umpire, and put the native in the complete control of the local European population.[42] There are those who believe that the native question will not be solved in Kenya until full responsibility for

[41] Cf. Vol. I, p. 293.

[42] During the last election campaign, the chairman of a political meeting asked if the candidates would "give a definite undertaking" that if elected one of the first things they would apply themselves to would be "the turning out of Wakamba labour." One candidate who was already a member of the Legislative Council replied that he had already used "all the influence" he possessed "to get Wakamba labour out." *East African Standard,* February 12, 1927.

the problem is placed upon the local European population. At present, Europeans make irresponsible statements which aggravate the situation, and which they probably would not make, if responsible for the administration of the country.

While undoubtedly there is some merit in this argument on the settlers' side, experience shows that when a European community acquires complete control over a primitive people, its policies are liable to be dominated by what it regards as racial and economic self-interest rather than by any conceptions of humanitarianism or of the interests of the primitive people. While many southern slave owners in the United States attempted to treat their slaves well, they came to believe that slavery was an institution which, after all, worked to the advantage of the black as well as of the white, and it was only the disinterested opinion of the North which brought about a change. The history of Basutoland shows what happens to a primitive people left to the mercies of an acquisitive European population on the spot not controlled from without—a conclusion borne out by the history of the two Dutch Republics in South Africa.[43]

The Imperial Government has, in a number of instances, attempted to satisfy the demand of Europeans in inter-racial communities for self-government, while at the same time attempting to retain control over native affairs. Thus in granting responsible government to Natal, the Orange Free State, and the Transvaal, the Crown prohibited color bar legislation.[44]

But it is doubtful whether these provisions were effective in controlling the native policy of the local communities. Moreover, all of them were abandoned upon the formation of the Union. In Southern Rhodesia, the Crown was more successful in imposing restrictions upon the native policy of the Chartered Company. In granting responsible government, it maintained most of these restrictions. But, as we have seen, under the altered circumstances, their value is doubtful. The adoption of measures establishing in Kenya a modified Transkei system, and the placing of this system under the control of a representative of the Imperial Government[45] would probably be more effective than the Southern Rhodesian plan. Nevertheless, any plan of removing the natives from the control of a self-governing European community presents endless difficulties which are multiplied by the problems created by the presence of an Indian population. If responsible government is vested in any one of these three communities, the other two are liable to suffer.

The problem of Kenya is fundamentally an economic, and not a

[43] Cf. Vol. I, p. 163. [44] Cf. Vol. I, p. 6. [45] Cf. Vol. I, pp. 89, 218.

political, problem. The territory is in the clutches of a system in which the economic interest and in some cases the economic existence of two thousand landowners and farmers is vitally dependent upon native labor. Most of the natives wish to remain at home, either idling or working for themselves. But as a result of a "persuasive" labor policy and of confining natives to reserves which will soon reach the saturation point, the Kenya Administration has succeeded in bringing under European employment a proportionately larger number of natives than in any other territory in Central Africa. Because of the serious social results of a concentrated type of European industry dependent upon primitive labor coming over long distances, the French and the British have deliberately kept this system out of West Africa. In an effort to diminish the results of the system which is apparently leading to depopulation and social disorganization, the Belgian Congo has curtailed alienation of land, and has fixed a limit of ten per cent on the number of men who may be permanently away from their villages. In an attempt to disentangle almost insoluble problems which have resulted from the system in South Africa, the Hertzog Government is now trying to establish native communities where natives may live by themselves.[46]

Nevertheless, the Kenya Government, taking the position that the "climate" of East Africa makes European settlement possible—an argument which entirely overlooks native interests—is encouraging further European emigration and land alienations which makes the burden upon the native population greater than ever. While the development of labor-saving machinery and crops may partially relieve the situation, the opinion of the Kenya Missionary Council that the curtailment of further European settlement is imperative until by observation and research the actual results of these experiments can be determined, would seem to be sound.

To put itself in line with developments in other white settlement territories, the Kenya Government might seriously study the proposals of the Southern Rhodesian Land Commission giving natives the exclusive right to purchase land in certain areas outside the reserves—a measure which might gradually overcome the insufficiency of the Kenya reserves. Likewise it might do well to consider the Transkei system in South Africa under which the Kenya native reserves might be given a budget of their own, financed by, say, one-half of the native hut and poll taxes,[47] and

[46] Cf. Vol. I, p. 136.

[47] The Chief Native Commissioner writes, "Now that the Local Native Councils have been established it would seem to be more than ever imperative that the incidence of taxation and its relation to the benefits severally enjoyed by the communities from which it is collected should be closely examined by an expert

supporting, under the control of the Governor and Chief Native Commissioner, a staff of native welfare officers who, in addition to native commissioners, would devote their whole time to the improvement of native agriculture, animal husbandry, education, and health. Such reserves, as in the case of South Africa, might be placed under the rule of executive proclamation rather than of legislative ordinance.

and impartial body. . . . The incidence of general taxation must be arranged so that each taxpayer pays his due share towards the overhead costs of Government which are incurred in the general interest of all sections of the community. Thereafter, let each community levy local cesses to provide the cost of its schools, hospitals or other local specific services. . . . The various native communities having discharged their obligations to the State by payment of their tax would then, with a clear conscience and a sense of citizenship, proceed, through their Local Native Councils, to levy local rates, to administer their own funds, to construct their own bridges, buildings and other public works in Native Reserves, to regulate their own local affairs under appropriate advice and guidance, to subsidise their own schools and hospitals and thus gradually to erect upon their own patriarchal foundations a flourishing and progressively expanding system of popular local self-government. The extent of local services will depend entirely on local rates. There will be no sense of pauperisation; on the contrary there must be engendered a sense of responsibility and self-reliance." *Native Affairs Department, Annual Report,* 1925, p. 36. The adoption of some such suggestion would go a long way to make the Dual Policy a reality.

APPENDICES—KENYA

V. Despatch on Native Labor.
VI. Offences under East Africa Masters and Servants Ordinances.
VII. Native Welfare Expenditures on all Races, Colony of Kenya, 1926
VIII. Colonial Loans.

APPENDIX V

DESPATCH ON NATIVE LABOR

Despatch to the Officer Administering the Government of the Kenya Colony and Protectorate Relating to Native Labour.[1]

Downing Street.

KENYA, No. 1353. *5th September*, 1921.

Sir,

1. Among the more important matters which I have been able to examine with Sir Edward Northey during his visit to this country is the native labour policy in Kenya. This subject has given rise to much discussion in this country, more especially in connection with the compulsory labour for Government, provision for which was made in the Native Authority (Amendment) Ordinance, 1920, and it has become increasingly evident that there is genuine misgiving in many quarters as to the effect of the present policy.

2. I thought it desirable, therefore, to review the whole question in consultation with Sir Edward Northey, and I have decided that certain modifications should be introduced in the present system, which I have reason to think will remove the objections entertained. I must, however, say at once that in taking this action, I am in no way actuated by distrust of the motives of your Government or the aims of the Administration generally. Nor do I attach importance to the ill-informed allegations, which are sometimes made, that the Government is exploiting the natives either for Government work or in regard to private employment, as I know that this is entirely alien to the spirit of the Administration as a whole, and that Sir Edward Northey would not countenance any such action. On the other hand, there is genuine anxiety on the part of those who have knowledge and experience of the natives and interest in their welfare as to the effect of recent measures; and I feel sure that your Government will agree that, if it is practicable to modify any features in the native labour policy of the Colony which may afford a ground for criticism against the Government, it is in the interests of all concerned to effect such modifications, and I know that Sir Edward Northey himself shares this view of the matter.

3. For the purpose of this despatch it will be convenient to deal separately with the three main aspects of the question:—

(i) *Traditional unpaid labour by natives in a Reserve for the benefit of the Reserve.*

Under Section 7 of the Native Authority Ordinance, 1912, any Headman may from time to time issue orders to be obeyed by natives residing within

[1] Cmd. 1509 (1921).

the local limits of his jurisdiction for certain purposes. Under Sub-section (*h*) of that Section, the able-bodied men may be required to work in the making or maintaining of any water-course or other work constructed or to be constructed or maintained for the benefit of the community to which such able-bodied men belong, provided that no person shall be ordered or required to work in this way for more than six days in any quarter.

This form of labour, which is traditional among natives in East Africa, is not, in my opinion, open to criticism, provided that such labour is confined to males and that the other limitations imposed by the Ordinance are strictly observed, and I do not propose that any alteration should be made. Sir Edward Northey has assured me that he will take all necessary steps, by administrative regulation, to check abuses that may be brought to his notice, and that he will at once enquire into any specific cases of infringement or alleged infringement of the Ordinance to which his attention is directed. In this connection I may observe that it is impossible for vague complaints of a general nature to be dealt with, and I trust therefore that anyone who desires to bring any abuse to the notice of Government will not hesitate to supply the fullest information in order that adequate investigation may be made.

(ii) *Voluntary labour for private employers.*

The principle that Administrative Officers and Native Chiefs should take every opportunity of inculcating among the natives habits of industry either inside or outside the Reserves is obviously right, and not open to criticism. But beyond taking steps to place at the disposal of natives any information which they may possess as to where labour is required, and at the disposal of employers information as to sources of labour available for voluntary recruitment, the Government officials will in the future take no part in recruiting labour for private employment.

This decision will, I think, ease the position of the Government officials, whose duties in this connection will be thus clearly defined.

(iii) *Compulsory paid labour for Government.*

Under the Native Authority (Amendment) Ordinance, 1920, provision was made for Headmen to issue orders to be obeyed by natives residing within the limits of their local jurisdiction for the provision of paid porters for Government servants on tour and for the Government Transport Department, and for the provision of paid labour for work on the construction or maintenance of railways and roads wherever situated in the Protectorate (now Colony and Protectorate of Kenya) and for other work of a public nature whether of a like kind to the foregoing or not, subject to the provisos that no person should be required to work in this way for a longer period than 60 days in any one year, or if fully employed in any other occupation, or if so employed during the preceding 12 months for a period of three months, or if otherwise exempted under directions issued by the Governor.

I do not propose to examine now the various arguments put forward for or against this form of labour. Lord Milner agreed to the enactment of the Native Authority (Amendment) Ordinance, 1920, being satisfied at the time that the position justified this measure; but it has always been recognised that recourse should not be had to compulsory labour for Government purposes unless this was absolutely necessary. I need not enlarge on this point of view, which is generally accepted, no less in Kenya by Sir Edward Northey and the Colonial Government than by His Majesty's Government. But conditions have to some extent changed, since the Ordinance was framed, and it is clear from the information with which I have been supplied that the Government has in fact been able to carry out necessary work with only rare recourse to the powers of compulsion conferred by the Ordinance. I hope and believe that in the present state of the labour market in Kenya, recourse to compulsory labour will not be necessary; but it is not certain that this state of affairs will be permanent, and work essential to the life of the community must be carried on. While, therefore, in order to leave no room for misconception, I wish it to be placed on public record that it is the declared policy of the Government of Kenya to avoid recourse to compulsory labour for Government purposes, except when this is absolutely necessary for essential services, I have decided that the legislation which empowers the Government to obtain compulsory labour shall remain on the statute book, but with the following amendment: It should be provided that, except in regard to the provision of paid porters for Government servants on tour or for the transport of urgent Government stores, the Government must refer to the Secretary of State for prior authority to utilize the powers of compulsion conferred by the Ordinance and that such authority will only be given for specified works for a specified period. Further, the works of a public nature for which compulsory labour is now permissible and for which in special cases the Secretary of State may in future authorize compulsory labour should be defined in the amending Ordinance. I have not attempted to prepare such a definition, as I think that this ought first to be carefully considered by your Government; but in any event I wish it to be made clear that works carried out for the Government by a contractor cannot be included except with the express sanction of the Secretary of State.

(iv) *Labour from the Tanganyika Territory.*

The arrangements laid down in paragraph 10 of my predecessor's despatch * No. 1027 of the 22nd July, 1920, in regard to the recruitment of voluntary labour in the Tanganyika Territory for Government work in Kenya are not, I think, open to criticism, and I do not suggest that any modification should be made.

4. I have to request that you will submit to me, for consideration, as soon as possible the draft of an amending Ordinance to give effect to the decisions

[2] No. 1 in [Cmd. 873].

in regard to compulsory paid labour for Government; but pending the enactment of the amending Ordinance, you should be guided in your action by these decisions and refer to me for prior approval for utilizing the powers of compulsion, except for the two purposes specifically provided for. I should also be glad to receive, for my information, copies of any circulars which may be issued by your Government notifying the modifications in policy generally which I have indicated above.

5. The general principles of policy laid down in this despatch for Kenya will be extended, so far as they are applicable, to Uganda and Zanzibar, and I am sending a copy of this despatch with the necessary instructions to the Acting Governor of Uganda and the Acting High Commissioner for Zanzibar.

6. I propose that this despatch should be published as a Parliamentary Paper and presented to Parliament at an early date.

I have the honour to be,

Sir,

Your most obedient, humble servant,

WINSTON S. CHURCHILL.

THE OFFICER ADMINISTERING
THE GOVERNMENT OF KENYA.

APPENDIX VI

OFFENSES UNDER BRITISH MASTERS AND SERVANTS ORDINANCES

EAST AFRICA

In most British Masters and Servants Ordinances in East Africa, it is customary to classify the offenses of servants into two main groups each with separate penalties, usually as follows:

Class I. Any servant is liable to a fine not exceeding one month's wages and in default of payment to imprisonment not exceeding one month

(1) if he fails to commence work at the stipulated time in the contract;

(2) if he absents himself without leave from the place appointed for work;

(3) if he becomes intoxicated during work;

(4) if he "shall neglect to perform any work which it was his duty to have performed, or if he shall carelessly or improperly perform any work which from its nature it was his duty under his contract to have performed carefully and properly";

(5) if he shall without leave and for his own purposes make use of any horse, vehicle, or other property belonging to the employer;

(6) if he shall use any abusive, insolent, or insulting language to his employer;

(7) if he shall refuse to obey any command of his master;

(8) if on entering into a contract of service, he shall give a false name or address.

Class II. Any servant shall be liable to imprisonment for a term not exceeding six months or to a fine of one hundred and fifty shillings

(1) if he wilfully or through drunkenness does any act tending to the immediate damage of any property placed by his employer in his charge;

(2) if he refuses or omits to do any lawful act for preserving in safety any property placed by his employer in his charge;

(3) if, being employed as a herdsman, he shall fail to report to his employer the death of any animal placed in his charge;

(4) if, being employed in any other capacity, he shall allege the loss of any property placed in his charge, which is shown to be his fault;

(5) if he shall without lawful cause depart from his employer's service with intent not to return thereto.

APPENDIX VII

Native Welfare Expenditures on All Races

COLONY OF KENYA

Year 1926

(Total Expenditures are £2,385,666.)

	Amount (Pounds)
I Education	
Education Ordinary	105,153
Education Extraordinary	5,470
Total	110,623
II Agriculture and Forestry	
Agricultural Department	113,999
Forest Department	31,166
Game Department	16,276
Total	161,441
III Medical and Sanitation work	194,959
Extraordinary	1,000
Total	195,959
Grand Total	468,023

Source: Colony and Protectorate of Kenya, *Draft Estimates* of Revenue and Expenditure for 1926, pp. 28-29.

APPENDIX VIII

COLONIAL LOANS

Summary of Interest and Sinking Fund Charges Being Borne by the Colony and the Railway in 1927.[1]

	Interest			Sinking Fund		
	Colony.	Railway		Colony.	Railway	
		Railway.	Port.		Railway.	Port.
	£	£	£	£	£	£
I. £5,000,000 Loan	44,869	172,509	82,622	9,722	37,377	17,901
II. £3,500,000 Loan	.....	.....	.....	.....	.....	.....
III. £3,000,000 Loan	.....	111,300	26,700	.....	.....	.....
IV. Colonial Loan:—						
(i)	.....	.....	.....	.....	.....	.....
(ii)	.....	.....	.....	.....	.....	.....
(iii)	107	.....	.....	.....	.....	.....
	.....	£283,809	£109,322	£9,722	£37,377	£17,901

[1] From "Colonial Loans," Statement submitted to Legislative Council at the Session of March, 1927, Kenya.

SECTION V

TANGANYIKA TERRITORY

CHAPTER 26

THE ESTABLISHMENT OF THE MANDATE

A TERRITORY of great natural beauty, the plateau of East Africa is broken by lofty mountains and great lakes. Mount Kilamanjaro, having an elevation of more than 19,000 feet, is the highest mountain in Africa; Mount Meru towers 15,000 feet above the sea. On the north of East Africa lies Lake Victoria Nyanza—a lake even larger than Lake Michigan; further south lie Lake Tanganyika, upon the shores of which Stanley found Livingstone, and Lake Nyasa. East Africa before the World War was the brightest jewel in the German Empire.

1. *German Rule*

In German days, East Africa had an area of 384,000 square miles, and a population estimated at about 7,600,000. Nearly half of this population was densely settled in two native kingdoms to the north of Lake Tanganyika—the kingdom of Ruanda which has a population of two million and that of Urundi having a population of one million five hundred thousand. The density per square mile in Ruanda was one hundred eighty-seven; and in Urundi, one hundred thirty-two. The large population of Ruanda and Urundi has been significantly attributed to the "existence of strongly organized states which imposed discipline on the natives and prevented depopulation by war."[1] Elsewhere, the native population was sparse because of sleeping sickness, tribal wars, and the demands of the government and planters for labor.[2]

After establishing order throughout the country which necessitated a number of native wars,[3] the German Governument proceeded to install a railway system and to build the harbors necessary for the economic development of the territory. The Central Railway extended from Dar-Es-Salaam through Tabora to Kigoma—a distance of 1,250 kilometres. By means of this railway it is now possible to travel from Dar-es-Salaam to Kigoma where one may cross Lake Tanganyika and enter the Belgian Congo where he may descend, travelling by river boat and train, to the West Coast by one route or to Cape Town by another. If one

[1] *Tanganyika,* British Foreign Office Handbook, No. 113, 1920, p. 20.
[2] Cf. Vol. I, p. 447.
[3] Cf. Vol. I, p. 447.

plans carefully his connections, he may cross from Dar-es-Salaam on the East Coast to Matadi on the West Coast in nineteen days. The Germans also constructed the Usambara railway which ran from Tanga on the coast to Moshi, which lies at the foot of Kilimanjaro, a distance of three hundred fifty-four kilometres, a road built to serve the European settler interests. The Germans had planned to build a railway from Tabora on the Central Railway to Shingyanga and eventually to Ruanda and Urundi, and to extend the Usambara railway to Arusha and ultimately to Lake Victoria Nyanza—plans which the War brought to an untimely end. To construct these railways, the administration imported Greek contractors who were obliged to secure their own labor, a fact which accounts in part for the large number of Greeks in the territory to-day. To a certain extent the British utilize Greek residents as contractors to-day. The German Government turned over both of these lines to private companies to be operated. It nevertheless owned nine-tenths of the stock in the Central Railway Company.

In other directions, the results of German Administration are noticeable. Dar-es-Salaam is without doubt the best laid-out city in East Africa; and its native village is far superior to the native locations one finds elsewhere. In many of the cities which it created, the government erected a number of imposing "Kaiserhof" hotels, some of which are to-day used for government purposes. The Dar-es-Salaam Kaiserhof, shorn of its past elegance, has become the New Africa Hotel, owned by an Indian, but operated by a Greek.

These developments consumed large sums of money which could not be obtained from current revenue. Consequently, the Tanganyika Government floated loans which amounted to about 156,000,000 marks and which were expended mostly for railway construction. The present status of these loans has created an international problem, to be discussed later.[4] German East Africa was by far the most productive of all the German colonies. Out of a total colonial trade amounting in value to 263,600,000 marks in 1912, it furnished nearly 82,000,000 marks.[5] Out of a total native population of twelve million in the German Colonial Empire, German East Africa had more than seven million, six hundred thousand.[6] Twenty-one per cent of the investments in the German Empire were in East Africa. It was also the beneficiary of more than half of the Ger-

[4] Cf. Vol. I, p. 436.

[5] Cf. the table in Appendix IX.

[6] But the 5336 Europeans in East Africa were outnumbered by the European settlers in German Southwest Africa, numbering 14,830. *Die deutschen Schutzgebiete in Afrika und der Südsee,* 1912-1913, Amtliche Jahresberichte, Berlin, 1914, Statistical Part, p. 9.

man colonial loans. Representatives of the five thousand Europeans in the territory were allowed to participate in the advisory council (*Gouvernementsrat*) of the government.[7] It was composed of three officials and from five to twelve unofficial members elected by an indirect system from three districts. Having only advisory power, the council expressed an opinion on the draft of the budgets and on laws placed before it.

Each of the more important townships, such as Dar-es-Salaam, had a municipal council (*Bezirksrat*) having an unofficial elected majority which assisted in the administration of local affairs.

The government was presided over by a governor assisted by an official called the first *Referent,* corresponding to the British chief secretary, and by a number of *Referents* as department heads.[8]

2. *The East Africa Campaign*

Because of the great economic and strategic importance of this territory, East Africa played an important part in the World War. Between 1914 and 1916, the Germans made spasmodic raids against the Uganda Railway defended by British troops, while they also attempted to attack the British port of Mombasa. Meanwhile the British campaign was being organized; and in 1916 General Smuts of South Africa was appointed commander-in-chief. In 1917, he launched an offensive against the Germans, in which East Africans, Rhodesians, Nigerians, Gold Coasters, Gambians, Indians, and West Indians participated. Belgian troops entered the territory from the side of Lake Tanganyika; while Portuguese troops entered from the south across the Rovuma River. Under the remarkable leadership of General von Lettow-Vorbeck, a man of unusual personality and ability,[9] the German troops put up a sturdier defense than in any other German colony. In November, 1917, von Lettow was finally driven across the Rovuma into Portuguese territory. Pressed by British troops from Nyasaland, von Lettow again entered German East Africa, but later withdrew to Northern Rhodesia. He escaped capture until after the signing of the Armistice when, following Germany's example at home, he voluntarily surrendered at Abercorn.

The loyalty of the natives and particularly of the German *askaris* (soldiers) to the Germans during the War was remarkable. As far as

[7] Cf. Verfügung des Reichskanzlers, betreffend die Bildung von Gouvernementsräten, December 24, 1903. *Die Landes-Gesetzgebung des Deutsch-Ostafrikanischen Schutzgebiets,* 1911, Dar-es-Salaam, Vol. I, p. 103.

[8] *Deutsches Kolonial-Lexikon,* edited by Dr. Heinrich Schnee, Leipzig, 1920, Vol. I, p. 398.

[9] Cf. the praise of Brigadier-General C. P. Fendall, *The East Africa Force, 1915-1919,* London, 1921, p. 128.

the *askaris* were concerned, this was partly due to the privileges which German officers had allowed them to take with the native population.[10]

Rendering marked assistance in the East Africa campaign, the Belgian troops captured the town of Tabora in September, 1916; thereafter General Malfeyt, with headquarters at Kigoma, established a Belgian military administration, extending from Tabora to the lake, and which included Ruanda and Urundi.[11] At the Paris Peace Conference, the "Big Four" at first intended to hand over the whole of German East Africa to the British. But in view of their conquest and administration of the western part of the territory, the Belgians would not submit to this arrangement.[12] Apparently they claimed that they should be given East Africa as far as Tabora and the Portuguese bank of the Congo. After considerable discussion, a compromise was finally reached in the Milner-Orts Agreement which gave to Belgium Ruanda-Urundi, which is now held under a mandate similar to the mandate by which the British hold Tanganyika proper. The Belgians did not, however, evacuate Tabora and Kigoma until March, 1921. In return for the evacuation of this territory, the British, in a convention, guaranteed to Belgium freedom of transit across the territory from the Belgian Congo, and granted it concessions at the port of Kigoma on the lake and at the harbor of Dar-es-Salaam, which are administered by Belgians.[13] By this means, the copper of the Congo may be evacuated without interference of British customs officials.

In drawing the boundary between Tanganyika and Ruanda-Urundi, the authors of the Milner-Orts Agreement ran the line west of the Kagera River giving to the British a strip of territory thirty kilometers wide and a hundred kilometers long, called "Kisaka," which contained about a hundred thousand people, in order that they could have a right of way for the proposed Cape-to-Cairo railway. But in drawing this line, the framers of this agreement were apparently not aware that they cut the native kingdom of Ruanda in two—part of it falling into British and part of it into Belgian territory—which caused a great deal of hardship and ill-will among the natives affected.[14] Following representations of

[10] Von Lettow-Vorbeck says, "After the plundering of an enemy camp, which often yielded rich booty, cigarette smoke rose on all sides." Von Lettow-Vorbeck, *My Reminiscences of East Africa,* London, p. 233. The loyalty of the native population is also discussed by Governor H. Schnee, *Deutsch-Ostafrika im Weltkriege,* Leipsig, 1919, Ch. 8.

[11] For details, cf. Baron Wahis, "La participation belge à la Conquête du Cameroun et de l'Afrique orientale allemande," *Congo,* 1920, pp. 1-45. Also P. Daye, *Avec les Vainqueurs de Tabora,* Paris, 1918.

[12] Cf. statement of Mr. Louwers, *Le Flambeau,* quoted by Daye, *L'Empire Colonial Belge,* Brussels, 1923, p, 425.

[13] Convention of March 15, 1921. Cmd. 1327 (1921).

[14] *Rapport sur l'administration belge du Ruanda-Urundi,* Chambre des Représentants, 1922-1923, Brussels, p. 6.

missionaries on the spot, the Mandates Commission called the attention of the League Council to the situation created by the boundary; and the Council placed the matter before the two governments concerned.[15] After correspondence between these governments, the council authorized the British Government to retrocede the Kisaka area to the Belgian mandate.[16] In making this retrocession, Great Britain voluntarily sacrificed a desirable right of way for the Cape-to-Cairo railway out of consideration for the interests of a native state. As the writer did not visit Ruanda-Urundi, it will not be discussed here except to say that probably the most important international effect of the establishment of the Belgian mandate over the territory is that the British settlers and planters in Tanganyika are unable to recruit from what otherwise might prove to be a great reservoir of labor.[17]

In confirming the boundaries of British Tanganyika, the Council also granted to Portugal the Kionga triangle, a tiny strip between the mouth of the Rovuma River and Cape Delgado, which Portugal had finally recognized as belonging to Germany in a Boundary Agreement of 1909.[18] It was now returned out of "gratitude" for Portuguese help in the East Africa campaign.[19]

3. *The Establishment of a Civil Administration*

The basis of British authority in Tanganyika rests upon several documents, the first of which is the Tanganyika Order in Council of 1920 which provides that the territory shall be administered by a Governor, assisted by an Executive Council.[20] No provision was made at that time for the establishment of a Legislative Council—an omission which proved a source of complaint to the European population. This complaint was met by the publication of a second document, the Tanganyika Legislative Council Order in Council of March 19, 1926.[21] This Order in Council provides for a Legislative Council having an official majority of thirteen, and a maximum of ten unofficial members who, unlike the members of the Kenya Council, are nominated by the Governor. For the time being, the government has decided to appoint only seven of these unofficial mem-

[15] Minutes of the Second Session, Mandates Commission, p. 97; *Official Journal of the League of Nations,* November, 1922, p. 1178; *ibid.,* November, 1923, p. 1273.

[16] Cf. *Correspondence regarding the modification of the Boundary between British Mandated Territory and Belgian Mandated Territory in East Africa,* Cmd. 1974 (1923).

[17] Cf. Vol. II, p. 462.

[18] Agreement of November 24, 1909, *Landes-Gesetzgebung,* p. 18.

[19] A severe opinion of the Portuguese officers is given by von Lettow-Vorbeck, *cited,* p. 281; and by General Fendall, *cited,* pp. 119-120.

[20] *Statutory Rules and Orders,* 1920.

[21] *Ibid.,* 1926, p. 576.

bers. All of these members are Englishmen, except two Indians, despite the fact that only 1,598 out of the 2,447 Europeans in the territory in 1921 were British subjects.[22] The second largest European group, the Greeks, who number two hundred and seventy-nine, has no members on the Council. It was understood that the Colonial Office considered the desirability of Greek representation, but could find no way of avoiding the necessity of having a member take an oath of allegiance to the British Crown which a Greek, being an alien, could not do. Although there is no obligation imposed by the mandate to associate alien Europeans in the administration of the territory, the inclusion of such representatives on the Legislative Council would diminish hostile criticism of alien residents, and their advice would be as helpful to the local administration as that of British subjects. The question will grow in importance with the return of German settlers to the territory.

The third constitutional document governing the administration of Tanganyika is a mandate issued not by the British Colonial Office, but by the Council of the League of Nations. It will be remembered that in the Treaty of Versailles, article 119, Germany ceded her rights over her overseas possessions to the Principal Allied and Associated Powers. Upon the basis of this article, the Supreme Council, at the Paris Conference, divided up these possessions between the principal powers, excepting Italy and the United States. In this division, the British secured Tanganyika. But article 22 of the Covenant of the League of Nations (the Treaty of Versailles) imposed certain obligations upon the administration of the former German colonies which were more precisely defined in mandates drawn up by the Council of the League of Nations.[23] Briefly speaking, these obligations require the mandatory power to promote "to the utmost" the social progress of the inhabitants of the territory; they require the mandatory power to suppress the slave trade and eventually to emancipate slaves; to protect natives from abuse in the recruiting of labor; to respect the rights and interests of the native population in the land; and not to use the territory for military purposes. As far as outsiders are concerned, the mandatory must maintain the open door. Each mandatory power must submit an annual report to the Mandates Commission composed of nine members appointed by the Council because of their knowledge of the colonial world—five of these members must come from non-mandatory countries.

[22] Cf. *Non-native Census, Report,* 1921, p. 2. There are also one hundred and sixty French in the Territory.

[23] The Tanganyika mandate was confirmed in August, 1922, 1923, *Official Journal of the League of Nations,* 1922, pp. 793, 865. The full text of Article 22 of the Covenant and the Tanganyika mandate is printed in the appendix, Vol. I, p. 545.

The Mandates Commission investigates the administration of the mandates and reports on such administration to the Council of the League of Nations.

The Tanganyika mandate differs from the other mandates in regard to the settlement of disputes. Article 13 of the mandate provides that if any dispute arises between the mandatory and another member of the League relating to the interpretation of the mandate, such dispute, if it cannot be settled by negotiations, shall be submitted to the World Court. So far, this article corresponds to similar articles in the other mandates. But the Tanganyika mandate goes further and says that "States Members of the League of Nations may likewise bring any claims on behalf of their nationals for infractions of their rights under this mandate before the said Court for decision."

The inclusion of this latter clause might imply that in its absence a government could not take a matter involving the interpretation of the mandate to the World Court, if the action of the mandatory power giving rise to the difference in interpretation affected only the rights of an individual and not those of a government. This question was raised in the Mavrommatis Jerusalem Concessions case, involving the Palestine mandate. A number of judges of the World Court, to which this dispute was referred, declared that in the absence of the second clause of the article found in the Tanganyika mandate from the Palestine mandate, the Court could not take jurisdiction over a dispute between the mandatory state and an individual, M. Mavrommatis; and the fact that the government negotiated for the individual did not make the controversy one between governments. If this interpretation were correct, it would mean that foreign individuals in Tanganyika would have greater protection than in other mandated territories, inasmuch as in this mandate, states are expressly granted the right to defend the claim of an individual. But the majority of the Court ruled in the Mavrommatis case that despite the fact that the Palestine mandate omitted the clause in regard to individual claims, "It is an elementary principle of international law that a State is entitled to protect its subjects, when injured by acts contrary to international law committed by another State, from whom they have been unable to obtain satisfaction through the ordinary channels. By taking up the case of one of its subjects and by resorting to diplomatic action or international judicial proceedings on his behalf, a State is in reality asserting its own rights—its right to ensure, in the person of its subjects, respect for the rules of international law. The question, therefore, whether the present dispute originates in an injury to a private interest, which in

point of fact is the case in many international disputes, is irrelevant from this standpoint." [24]

As a result of this judgment, it would appear that the second clause in article 13 of the Tanganyika mandate is not of material importance.[25]

In view of the fact that the British Empire did not annex Tanganyika, but held it as a mandate, a great deal of uncertainty among British business men and others arose. For a time, the Dar-es-Salaam banks declined to loan money upon the security of real property, which led many settlers to assume that this was because the British title to the territory was not secure. It appeared, however, that the banks held up loans, not for this reason, but because of the fact that Englishmen had provisionally occupied what was formerly German property for which the British government had not yet made out definitive titles. As in the Cameroons, many traders, having heard only vaguely of the general principles of the mandate system, believed that the British Government could administer the territory only for a term of years, and that it could be taken away from the government by the League of Nations. Consequently, a general uneasiness arose which, according to officials and business men, hindered the investment of capital in the territory.[26]

In an effort to calm these fears intensified by Germany's imminent entrance into the League, Mr. Amery, the Secretary of State for Colonies, declared at the East Africa dinner, in June, 1926, that the British mandate in Tanganyika was in no sense a temporary tenure or lease from the League of Nations. It was rather what might be called in lawyers' language, "a servitude, that was to say, an obligation to observe certain rules of conduct with regard to our administration in that territory. It was an obligation which might differ in degree, but might not differ in time, from the obligation which the British had equally taken internationally with regard to Kenya and Uganda,[27] and which they had undertaken at home in the whole conception of trusteeship and administration of British dependencies."

[24] *Collection of Judgments,* No. 2, Series A, 1924, p. 12. The opinions of the dissenting judges on the Tanganyika argument are found on pp. 60, 61 (Judge Moore), p. 43 (Lord Finlay), p. 82 (Judge Bustamente), and p. 86 (Judge Oda).

[25] Following the decision of the Court in this case, the Mandates Commission discussed the advisability of recommending that the last paragraph in article 13 of the Tanganyika mandate be deleted so as to make the mandate conform to the other mandates in this respect; but it finally decided to take no action. *Minutes of the Sixth Session, Permanent Mandates Commission,* C. 386, M. 132, 1925 VI, pp. 55, 158.

[26] Settlers have also inquired if their children born in the territory are British subjects.

[27] Apparently he refers to the Act of Berlin, as amended at St. Germain in 1919, in which the powers agreed to the principle of the open door and (in article 11) to the supervision of the improvement of the well-being of the native population. Convention of February 26, and September 10, 1919, Vol. II, p. 889.

A good many legal objections may be made to this statement, which need not detain us here. But as later chapters will point out, the obligations which the British Empire has undertaken in Tanganyika are much more precise than those which she has undertaken in any other part of Africa, and the interpretation and observance of these obligations do not depend upon the British Empire alone, but upon machinery established by the League of Nations.

Nevertheless, if the British Government lives up to these obligations, there is no question but that its position in Tanganyika is as secure as anywhere else in Africa—in fact, even more secure, since Tanganyika now enjoys the special protection of the League.

4. *Early Difficulties*

A government which takes over the administration of any territory from another government, especially at the end of a war, is confronted with innumerable difficulties. It is obliged to install and finance an administration, in a territory severely shaken by military exigency, which must maintain order and advance development. In the case of Tanganyika, the British found in 1920 that trade and revenue had fallen to less than half of what they were before the War. Germans had been expelled from the plantations and commercial enterprises as well as from mission stations, and these holdings were held together precariously either by the administration in the case of the plantations or by missionaries from Allied countries in the case of the missions.

Sir Horace Byatt, the first Governor of the Territory, had to contend with the problem of rescuing Tanganyika from the slough into which it had been plunged. The necessity of increasing revenue, in addition to Kenya's demand for protective duties, led the government to increase the ten per cent tariff, fixed by the Berlin Act until its amendment in 1919, to a tariff of twenty and thirty per cent which irritated many merchants. The Governor's profits tax irritated the Indians,[28] and his "pro-native" policy irritated the settlers, with the result that his administration soon became the object of bitter attacks, particularly from the *Dar-es-Salaam Times* which demanded his resignation.[29]

In 1922, the Dar-es-Salaam Chamber of Commerce likewise severely criticized the Governor for statements made in the 1921 report on Tanganyika to the League of Nations. In a memorandum addressed to the League of Nations Council and the Colonial Office, the Chamber of Commerce declared that the report conveyed an "erroneous impression." The

[28] Cf. Vol. I, p. 439.
[29] Cf. the editorial, "We Need Another Governor," March 18, 1922.

statement that land alienations had made the native community discontented was "dangerously misleading" and "but fatuous political propaganda directed against European enterprise." In concluding, the memorandum stated "We express the opinion that the report is admirably calculated to deceive the British public into imagining that despite innumerable difficulties, everything has been and is being done to assist" the European residents.[30] It believed that the report was more of a defense of the administration than a statement of existing affairs. This complaint thus raises the same criticism of the mandatory reports as has been raised in the French mandates.[31] But the fact that the Dar-es-Salaam Chamber of Commerce submitted a conflicting statement shows that if the residents of the territory freely exercise their right of petition, a remedy is at hand.

Into the details of the financial recovery of Tanganyika, we need not go, except to say that between 1921 and 1926 the revenue of Tanganyika increased by sixty-five per cent and the railway revenue one hundred and eighteen per cent. The budget was finally balanced in 1926. But in the preceding years the government was obliged to depend upon imperial aid to meet a deficit,[32] which up to 1926 amounted to 3,171,891 pounds—or nearly 600,00 pounds a year. By 1926 interest was being paid on 2,096,060 pounds.

Since 1922 all grants-in-aid have been considered as loans,[33] interest on which must eventually be paid. This policy stands in contrast to French policy in the mandated territories of Togo and the Cameroons where no advances have been made by the home government.[34]

The economic condition of Tanganyika in comparison with the condition of East Africa before the World War is shown in the table printed on the next page.

In comparing these figures, it should be remembered that in the German days, Urunda-Ruandi, territory not now included in Tanganyika,

[30] Cf. *ibid.*, February 11, 1922; cf. the editorial, "The Administrative Apologia," *ibid.*, February 4, 1922.

[31] Cf. Vol. II, p. 372.

[32] Between 1919 and 1923, there was a deficit in ordinary revenue, which was met by treasury advances. In the following years, ordinary revenue showed a surplus over ordinary expenditure, but there was a deficit of extraordinary expenditure, primarily for railway construction. There was also a deficit in ordinary railway revenue.

Annual Report by the Treasury for the Financial Year, 1924-1925, p. 3.

[33] Mr. Amery, *H. C. Deb.,* July 13, 1926, Vol. 198, Col. 222. The Estimates carried charges on account of public debt for 1920-1921, 1921-1922, and 1922-1923. In 1923-1924, 22,341 pounds were thus expended, and in 1924-1925, 3,138 pounds. But other interest charges were carried under the heading of railways. *Report by His Britannic Majesty's Government to the Council of the League of Nations on the Administration of Tanganyika Territory,* 1925, p. 45. Hereafter cited as *Report.*

[34] Cf. Vol. II, p. 284.

COMPARISON OF PRESENT AND PRE-WAR CONDITIONS IN TANGANYIKA[3]

	Pre-War (1912-13)		1920-1921			1925		
	Amount (Marks)	Amount (Pounds Sterling)	Amount (Pounds Sterling)	Change from 1912-13	Per cent Change from 1912-13	Amount (Pounds Sterling)	Change from 1912-13	Per cent Change from 1912-13
Revenue, Ordinary.....	15,370,828[1]	753,472[2]	790,467[1]	36,995	4.9	1,240,054[1]	486,582	64.6
Expenditure, Ordinary..	20,306,315	995,407	946,206	−49,198	−4.9	1,025,030	29,623	2.9
Imports	50,309,164	2,466,136	1,386,212	−1,079,924	−43.7	2,863,917	397,781	16.1
Exports	31,418,382	1,540,116	1,441,584	−98,532	−6.8	3,007,879	1,467,763	95.2
Total Trade.....	81,727,546	4,006,252	2,827,796	−1,178,456	−29.4	5,871,796	1,865,544	46.6
European Population ...	5,336		2,447	−2,889	−54.2	3,500	−1,836	−34.4
Asiatic Population.....	14,898		14,991	93	.6	14,991[4]	93	.6

[1] Figures for revenue and expenditure do not include railways or extraordinary items.
[2] Converted to pounds on basis of 20.4 marks per pound.
[3] Sources: Finance: "1913 Reichshaushalts-Œtat," pp. 704-20; trade, "Die deutschen Schutzgebiete in Afrika und der Südsee," 1912-13, p. 121. 1920-21, Tanganyika Report, 1925, and Tanganyika Draft Estimates.
[4] 1921 Census—no more recent figure available.

contributed to the revenue and trade of East Africa. Thus Tanganyika, reduced by three and a half million people to-day, has a larger revenue and trade than did German East Africa before the World War. This does not mean, however, that if the War had not occurred, East Africa under German management would not have shown the same increases. On the other hand, the European population is now considerably less than it was before the War.

5. *Ex-Enemy Property*

The Tanganyika Government was obliged not only to restore the revenue and trade of the country, but also to liquidate claims which individuals had against the German Government and to liquidate ex-enemy property. The German plantations, totaling about eight hundred and sixty estates, were for a time held by the government, but under the direction of a custodian of enemy property, a total of 2,151,100 acres had been sold by the end of 1925 for a sum of 1,381,327 pounds.[35] In the auctions for these holdings, Germans were not allowed to bid as they were in the British Cameroons.[36] It is understood, nevertheless, that some Germans purchased property through Greek and Indian "dummies." While the majority of these holdings were acquired by Britishers, Greeks and Indians also made large purchases. About ninety per cent of the property in Dar-es-Salaam is now in Indian hands. After the settlement of German claims against the estates, the sums derived from the sale of the plantations will presumably be credited by the Reparation Commission against Germany's reparations' account.

6. *Colonial Loans*

While the Germans were thus theoretically compensated for the expropriation of private property, the German Government received nothing for public property in mandated areas.

Article 257 of the Treaty of Versailles says: "In the case of the former German territories, including colonies, protectorates or dependencies, administered by a Mandatory under Article 22 of Part I (League of Nations) of the present Treaty, neither the territory nor the Mandatory Power shall be charged with any portion of the debt of the German Empire or States.

"All property and possessions belonging to the German Empire or to the German States situated in such territories shall be transferred with the territories to the Mandatory Power in its capacity as such, and no pay-

[35] *Report*, 1925, p. 63.
[36] Cf. Vol. I, p. 686.

ment shall be made nor any credit given to those Governments in consideration of this transfer."

An important question has arisen under this article in connection with the German colonial loans which in 1914 amounted to 246,000,000 gold marks, of which 156,000,000 gold marks were charged to Tanganyika. The annual interest charges on these loans in Tanganyika amounted to more than thirty-four million marks [37] or 1,700,000 pounds, which nearly equals the 1925-1926 revenue of Tanganyika Territory.

The Tanganyika Government, along with the other mandatory governments, has interpreted the above article of the Treaty of Versailles to mean that it is under no obligation to pay interest on the colonial loans, by means of which the railways and harbors of Tanganyika have been built.

It appears that during the two years following the Armistice, the German budget made provision for the payments of the interest on such loans. But later, these payments were stopped on the ground that the colonial loans were a liability which the mandatory governments were obliged to assume. Article 257 of the Peace Treaty merely provided that the mandatory should not be charged with any portion of the "debt of the German Empire or States." It is the German contention that the debt of these territories—borne by the colonial budget—is altogether different from the debt of the German Empire. That there is a juristic difference between the German Empire and its possessions was shown by an amendment to the land laws in 1902 which declared that the lands of Tanganyika belonged, not to the Reich, but to the Treasury (*Fiskus*) of the territory,[38] and by the fact that the German over-seas territories were protectorates (*Schutzgebiete*) and not colonies.

It is understood that in taking over a portion of the German debt in 1921, the French and Polish Governments both declined to assume a portion of the German colonial loans on the ground that they were not included in the imperial debt. If this interpretation is correct, it follows that the colonial loans are obligations of the local territory which the mandatory power is bound to assume. The assumption of such an obligation would increase Tanganyika's annual ordinary expenditures by eighty-five per cent.

So far, the mandatory governments, whether on the spot or at Geneva, have studiously avoided any discussion of this question. The entrance of Germany into the League of Nations is bound to bring it to the fore. It

[37] *Der Reichshaushaltsætat und der Haushaltsetat für die Schutzgebiete für das Rechnungsjahr* 1913, Berlin, 1913, p. 706.

[38] Cf. Vol. I, p. 487.

is a question suitable for reference to the Permanent Court of International Justice.

The fact that although the Allies assumed a portion of the German debt in territory taken from Germany in Europe, they did not do so in the mandates may explain why sentiment in Germany is particularly strong over the colonial question.

7. *The Indian Question*

Indians entered German East Africa long before the War, as they did Kenya and Uganda. In fact, many agents of long-established firms in Zanzibar and independent traders were in East Africa upon the arrival of the Germans in 1808—buying ivory and other products from Arab caravans coming out of the interior. With the German occupation, Indian traders entered the interior, and gradually emancipated themselves from the Zanzibar firms. In 1912, India and East Africa did a business of about nine million marks; and in order to accommodate this business the Deutsche Ostafrika Linie operated steamships between Bombay and Dar-es-Salaam.

While most of the Indians were traders, others were artisans and clerks working for German employers. Although the Germans excluded sick and indigent Indians, and although they required a deposit from Indian immigrants, Indians were generally welcomed to the territory where, in fact, they were recognized as being indispensable to trade.[39]

During the World War and after, the Indian population in Africa slightly increased—from 8,749 in 1913, to 9,411 in 1921.[40] But after the War, their economic position in the community greatly changed. With the compulsory deportation of German traders and planters, the Indians as British subjects stepped into their shoes. A large percentage of the German property sold by the government was purchased by Indians, including practically all the property of Dar-es-Salaam, where there are only two European retail firms, the remainder of the business being in Indian hands. In Tanganyika, as in Kenya, practically all the "bush" trade is in the hands of Indian ndukas. Indian cashiers and tellers wait on customers at European banks. In 1924, Indians owned more than two hundred sixty-six thousand acres of land in Tanganyika, in comparison with three hundred ninety-six thousand acres held by foreigners and with 1,118,000

[39] Cf. the article "Inder," *Lexikon, cited,* Vol. II, p. 92.

[40] In 1913, there were also 4,101 Arabs, Turks, etc., in East Africa, a number which increased to 4782 in 1921. In 1921, there were seven hundred and ninety-eight Goans or Portuguese Indians in Tanganyika, compared with six hundred and fifty-six before the War.

acres held by British subjects other than Indians.[41] The Indians own thirty per cent of the capital invested in agriculture.

Moreover, Indian immigration is considerably greater than European immigration into the territory. Between 1921 and 1925 (inclusive), 8,247 Indians entered the territory in comparison with 5,268 Europeans.[42] Unfortunately, no figures are published as to emigration, but one may assume that Indians are as permanent residents as Europeans.

The Tanganyika Government has imposed no restrictions upon the entrance of Indians to the territory, nor upon their acquisition of land. In the latter respect, Tanganyika policy differs from Kenya policy. The rights of Indians are protected by the terms of the mandate which guarantees equality of treatment of nationals of States members of the League of Nations, which includes India. In other words, the Indians in the Tanganyka mandate have greater privileges and more security than they do in the British colony of Kenya, or in the British Dominion of South Africa. In 1921, the Indian Government sent a representative, Sir Benjamin Robertson, to Tanganyika to investigate the possibilities of the settlement of Indian agriculturists in the territory, a suggestion apparently made by Lord Milner as a *quid pro quo* for the exclusion of Indian settlers from the Highlands of Kenya. The East Africa Congress passed a resolution supporting this proposal, a resolution which was later withdrawn. The Indian Government likewise came to discountenance the proposal, not only on the ground that no available land existed in Tanganyika, but also on the ground that Indians were guaranteed equality of treatment throughout the entire territory and that the grant of a special privilege in one locality might be inconsistent with the terms of the mandate, and might prejudice the condition of the Indians elsewhere.[43]

Despite their strong economic position in the territory, the Indian population represented by an Indian Association of Tanganyika having fifty-five branches and two local newspapers, have had a number of grievances, the first of which has been in regard to the profits tax. Before the World War, the German Government had imposed a trade tax which the British Government decided to revive in 1923.[44] The Indians raised an outcry against this tax, the burden of which now fell chiefly upon Indian shoulders, in contrast to the tax in the pre-war period, when fewer Indians were prosperous enough to pay. They now not only opposed this tax

[41] *Report*, 1924, p. 53. [42] Compiled from the annual reports.

[43] *Report by Sir Benjamin Robertson on Settlement of Indian Agriculturists in Tanganyika.* Cmd. 1912 (1921).

[44] Profits Tax Ordinance, *Ordinances, etc., of Tanganyika Territory* (hereafter cited as *Ordinances,*) Vol. IV, p. 35. For the German tax, see Ordinance of December 7, 1907, *Landes-Gesetzgebung,* Vol. I, p. 377.

because of its principle, but because of the provision that the books should be kept in a European language or Swahili—which thus excluded an Indian language. With the help of a number of Europeans, the Indian community organized a boycott, as a result of which they closed most of the shops of Tanganyika for a period of six weeks—a protest which probably hurt the Indians more than the government. They finally opened their shops in May, 1923, after which the government agreed to appoint a joint European-Indian committee to inquire into the matter. The government finally agreed to abolish the profits taxes altogether in favor of increased trading licenses.[45]

8. *War Claims*

A greater grievance still is in regard to the claims which the Indians have against the German Government.

In decrees of 1915 and 1916, the German Government in Tanganyika forbade anyone to possess cash in German East Africa in excess of personal and business requirements, and the holders of such cash were obliged to exchange excess sums for interim three per cent notes, which the German Government agreed to pay six months after the War. Likewise, the Bank of German East Africa was relieved of the obligation of exchanging their notes for coin.[46] These claims, together with other claims of the Indians for damaged property, amounted to twenty million rupees.[47]

Following the World War, the Tanganyika Government declared that these obligations did not fall upon the present régime, but remained with the German Government. It apparently included these claims in the same category as the colonial loans. For a time, it was believed that the German Government would admit liability for these claims. In 1926, it was allowed to send a mission to Tanganyika to pay salaries of German native troops contracted during the World War, which amounted to about a million and a half rupees.[48] No doubt the Germans believed that this move would revive German sympathies among the natives. But the German Government finally declined to admit the Indian claims on the ground that they did not rise out of a war emergency. In view of the refusal of the mandatory governments to assume German colonial loans, the present attitude of the German Government is entirely natural. But it leaves the Indian population impoverished to the extent of twenty mil-

[45] *Report,* 1923, p. 13.

[46] A translation of these two decrees is printed in the *African Comrade,* November 3, 1926.

[47] "Rs. 20,000,000 of Indian's Money in Jeopardy," *ibid.,* October 3, 1925.

[48] General von Lettow-Vorbeck says: "It was a matter of honour for us to see that these people, who had fought and worked for us with such devotion, should receive their rights." *Reminiscences, cited,* p. 319.

lion rupees or two million pounds (ten million dollars). Under such circumstances, the Tanganyika Government might equitably apply the sums derived from the sale of German plantations to the payment of these claims which, however, amount to seven hundred thousand pounds more than the sums so far derived from the liquidation of German property.[49] It should be pointed out also that the Indians are not the only ones to have suffered from these forced loans.

In the third place, the Indian community, which outnumbers the European population two to one, has complained over the fact that the government has appointed only two Indians out of the seven unofficial members so far on the Legislative Council. This has lead to a large number of protests from Indian organizations.[50] Apparently having in mind the difficulties experienced in Kenya with the principle of communal representation,[51] the Tanganyika Government has laid down the rule that it will appoint unofficial members, not with the purpose of giving representation to non-native groups, but with the purpose of naming those individuals who can best advise the administration. The application of this rule will create many dangers; but they will probably not become acute until the question of elective representation arises. In contrast to the Greeks and the Germans, who may enter the territory, the Indians are British subjects; and any proposal to give them elective representation less than that accorded to the European community will meet the same opposition as it has in Kenya (where the Indians now have five seats, in contrast to the Europeans who have eleven). Unlike the feeling in Kenya, Indian feeling in Tanganyika may vent itself before the Mandates Commission of the League of Nations. It might be a desirable experiment, when the time for elective representation comes, for Tanganyika to adopt the proposal made by the Wood-Winterton Committee in regard to Kenya, for a common electoral roll subject to a non-discriminatory educational or property test.

The Tanganyika Indians have likewise complained against the attempts of the government to convert titles which the Indians held as freeholds from the Germans, called "Kiwanja" tenure, into leaseholds, for a period of years fixed by the government. Moreover, railway employees occa-

[49] According to the 1924 *Report* (p. 43), "The net proceeds of German estates are payable into a liquidation fund administered by the Custodian of Enemy Property who is charged with the payment of certain classes of debts due to, and of claims by, British nationals resident in the Territory (which should include Indians). Any surplus is payable to the British Clearing Office for the purpose of satisfying similar debts and claims due to British nationals resident in the United Kingdom and British possessions, credit being given to Germany in accordance with the Treaty of Versailles."

[50] Cf. Resolution of the Dar-es-Salaam Indian Association and of the Tanganyika Indian Association, *African Comrade*, October 27, 1926.

[51] Cf. Vol. I, p. 295.

sionally subject Indians to discriminatory treatment, which the administration corrects as soon as it is called to its attention.[52]

Despite these grievances, the Indian population has fared much better in Tanganyika than in Kenya—a fact which the Indian Association of Tanganyika recognized in a memorandum to the East Africa Commission in which it protested against any idea of "co-ordinating the policies" of the two governments.[53] It is doubtful, however, whether the white settlers taking up land in Tanganyika—a number of whom are coming from Kenya—will enjoy Indian competitors and neighbors any more than they have in Kenya. Consequently, they will agitate for segregation. But the mandatory government must secure to all nationals of States members of the League (which include India) the same rights as are enjoyed by its own nationals in respect of the acquisition of property, movable and immovable, and the exercise of their profession or trade "subject only to the requirements of public order, and on condition of compliance with the local law." If the British Government believes that the Indian community is endangering the welfare of the native, it presumably may restrict its activities.[54] But it is doubtful whether it could on this ground apply restrictions to Indian farmers which did not apply to Europeans. If Indian farmers do not treat native labor as well as European farmers, the remedy is not segregation, but the enforcement of labor legislation.

9. *The Return of the Germans*

In June, 1925, the British Government removed all restrictions upon the entrance of Germans, as a result of which one hundred and eighty-eight German subjects returned to the territory in the following six months. Inasmuch as Germany is now a member of the League of Nations, German traders and settlers are entitled to exactly the same treatment as British subjects in the territory. German settlers may either repurchase former German estates if their present owners care to sell [55] or they may take up new land from the government as in the Southwest Highlands. If the provisions of the mandate in this respect are enforced, German settlers together with settlers from Italy, China, or Japan, who may like-

[52] Cf. *African Comrade,* October 12, 1925.

[53] This memorandum said, "Tanganyika Territory has a special status under the terms of the mandate which contemplate equality to the nationals of the members of the League of Nations."

[54] The representative of the British Government at the Mandates Commission advanced the idea that a Mandatory Power might restrict immigration of certain classes which might prejudice native interests provided such a restriction "applied to all workers of any nationality whatsoever." *Minutes of the Fourth Session,* A. 13, 1924, VI, p. 96.

[55] In the French mandates Germans are not allowed to purchase such estates for a term of years.

wise enter, may soon outnumber British settlers. If this development takes place, British "imperialists," who now advocate the establishment of a new Dominion of East Africa, may alter their views.[56]

This is no place to discuss the German movement for the return of the colonies except to say that the material argument for such a return is that Germany is in need of colonial trade and of a population outlet. Assuming that these needs exist, it should be pointed out that the mandate system has been devised (as far as the African mandates are concerned) to give all comers exactly the same rights as nationals of the colonial power. Similar provisions for the open door in past treaties have not meant a great deal, since the interpretation and enforcement of these rights was vested in the colonial power. The provisions in the mandates are, however, subject to the supervision of an international organization—the League of Nations—and the effectiveness of this supervision will increase with the appointment of a German as a member of the Mandates Commission—an appointment which was made by the League Council in September, 1927.[57]

At present, the Tanganyika Government is sincerely attempting to follow the policy of the open door, as is evidenced from an editorial in the *Tanganyika Times* which says, "We are continually in receipt of letters from British residents of Tanganyika protesting against the government action in giving to non-Britishers extremely remunerative contracts which in the opinions of the writers should be given to Britishers. . . . Most of the grievances with which we are periodically bombarded are against the Tanganyika Railways and the Public Works Department . . . Our correspondents state that a non-British applicant, whether he be Belgian, French, German or Greek, always finds the necessary financial backing from his compatriots and their banking institutions." [58]

If the Tanganyika Government rigidly enforces the open door, it is possible that German trade will eventually dominate the territory, even though under British administration, just as British trade dominated the French Cameroons following the War; and that German settlers and missionaries will outnumber British settlers and missionaries. It will also be possible for German scientists and doctors to take up the work begun before the War, and if the British Government finds itself unable to give financial support to such work, it can impose no obstacles to German humanitarian societies which by this means wish to further the cause of science and the principle of trusteeship. If the League of Nations sees to it that

[56] Cf. Chapt. 30.
[57] *Minutes of the Forty-sixth Session,* September 9, 1927, p. 2.
[58] *Tanganyika Times,* June 26, 1926, p. 6.

no political obstructions are placed in the way of this development, the Germans will receive all the advantages of colonization without being obliged to assume any of the responsibilities. The British Administration under such a system would continue to pay its way out of local revenue, but the administration would be, in the true sense of the word, a trustee for the natives, on the one hand, and for the interests, not only of the British Empire, but of the whole world, on the other.

CHAPTER 27

NATIVE ADMINISTRATION

TANGANYIKA resembles other parts of Central Africa in that it is inhabited for the most part by the Bantu, a people who usually do not possess great native states united under powerful chiefs, but who live in villages governed by democratic councils of elders. In the remote past, the tranquillity of these Bantu peoples was disturbed by invasions from the north on the one hand and from the sea and the south on the other. Several hundred years ago, the Galla and the Wahuma people of Hamitic extraction swept across East Africa into the regions bordering Lake Victoria Nyanza, where they established powerful native states which still remain in Ruanda, Urundi, Uganda, and Bukoka. This conquering race, now called the Wahimas or Watusis, have intermarried with the Bantu and adopted the Bantu tongue. But throughout the greater part of these areas, the chiefs are of Hamitic extraction.[1]

1. *The Masai*

At the end of the 18th century, another Hamitic people, called the Masai, already mentioned in connection with Kenya, entered East Africa. Unlike other Hamitic tribes, the Masai did not subjugate the people whom they conquered, but merely took their stock. They have, consequently, never established such dynasties as are found in the vicinity of Lake Victoria. The moral influence of the Masai over other tribes has, however, been considerable, because of their monotheistic religion, and their military organization which have both been copied. Nevertheless, the Masai have lived unto themselves, a warring and wandering people [2] who, despite the fact that they number only twenty-two thousand, are comparatively difficult to administer. Occupying territory which falls across both Kenya and Tanganyika, the Masai resent boundary restrictions and differences in ad-

[1] Cf. Hans Meyer, *Das Deutsche Kolonialreich,* Leipzig, 1909, Vol. I, pp. 70 ff. Cf. also *Deutsches Kolonial-Lexikon,* Vol. I, pp. 377 ff. A valuable account of the Wachagga people is found in The Hon. Charles Dundas, *Kilimanjaro and its People,* London, 1924.

[2] The standard work on the Masai is by a German author, Professor M. Merker, *Die Masai,* Berlin, 1904. A study of the Masai language will be found in A. C. Hollis, *The Masai,* Oxford, 1905.

ministration. The German Government, following the example of the East Africa Protectorate,[3] established a Masai reserve in 1906. This reserve soon proved inadequate, however, because it had been established at a time when the Masai cattle had been decimated in the rinderpest epidemic of 1897. In 1914, the German Legislative Council approved an enlargement of the reserve, but no steps to this end were taken, owing to the outbreak of the World War.[4] Meanwhile, the Masai continually trespassed on private land and raided the stock of the farmers around Arusha. For a time, they were scattered throughout six different districts. But in 1923, the government re-drew boundary lines so that the whole tribe was put within the district of Arusha, and the Masai reserve enlarged, so that it now contains 17,500 square miles. Frequent suggestions have been made that the territory occupied by the Masai should be placed entirely under either the Kenya or the Tanganyika Government, a move which is especially desirable in order to restore the political and ethnic unity of these people. The last Laibon, or high priest, to rule over the united Masai was Mbatian, who had his capital in Tanganyika Territory on the west side of Mount Kilimanjaro. Upon his death, in 1891, the Masai were divided between British and German East Africa, and one of Mbatian's sons, Lenana, became Laibon of the British Masai, and another son, Sendeyo, became the Laibon of the German Masai.[5] Despite the presence of European authorities, civil war broke out between the two sections. But in 1902, Sendeyo, harassed by the Germans, agreed to recognize Lenana as Paramount Chief,[6] and about two thousand Masai from German territory crossed into British East Africa. It appears, however, that at the present time the Masai in both territories look to the Tanganyika Laibon, who is now Parit, as the real head of their nation. Sympathy with the idea of uniting these two divisions has been expressed by the Mandates Commission. At the sixth session, the Commission noted in its report the difficulties "caused by the present frontier between Kenya Colony and the mandated territory of Tanganyika." It stated that it would "examine any proposal which might be made with a view to reuniting the Masai tribe, provided that it does not involve any limitation of

[3] Cf. Vol. I, p. 312.

[4] *Die deutschen Schutzgebiete in Afrika und der Südsee,* 1912-1913, p. 2. Cf. also *Report,* 1923, p. 13.

[5] According to tradition, Mbatian told his eldest son, Sendeyo, to come in the morning to receive the insignia of the succession. But the younger brother, Lenana, overheard the conversation and rose early and went to his father's hut. As Mbatian was nearly blind, he granted the insignia to Lenana by mistake. When Sendeyo arrived he was very angry and said "I will not be subject to my brother; I will fight with him till I kill him." The story is similar to that of Jacob and Esau. A. C. Hollis, *The Masai, cited,* p. 327.

[6] Cf. *Report on East Africa Protectorate,* Cd. 1626 (1903) p. 7.

the control exercised by the League of Nations under the mandate." [7] Any change in the Tanganyika boundaries would presumably require the consent of the Council.[8] As the Mandates Commission intimated, it would recommend a change only on the understanding that the territory be placed under the same responsibility to the League of Nations as is Tanganyika proper. Should the Masai in Tanganyika be placed under Kenya administration, the jurisdiction of the Mandates Commission would be extended over Kenya native policy in-so-far as it affects the Masai people. To escape this control, the Kenya Government would probably oppose unification, or in case it did favor it, it might conceivably consent to a cession of the Kenya Masai reserve to Tanganyika.

2. *The Zulu Invasions*

Along the coastal belt, the Bantu inhabitants of East Africa have, as we have seen, been submerged by the Portuguese, the Indians, and the Arabs. The intermarriage of the latter with local women has produced the present race of Swahilis. The Sultan of Zanzibar ruled the coastal strip through Arab officials called *akidas* and *jumbes*.

In the south, the Bantu were also disturbed, as early as the sixteenth century, by Zulu invaders from across the Zambesi. As a result of defeats at the hands of the Portuguese, the Zulus soon returned south and did not reappear in East Africa until the end of the nineteenth century when, known as the Wangoni, they returned and ruthlessly depopulated the country in the vicinity of Kilwa. For fifty years, they kept this area in continual bloodshed. Finally a Bantu tribe, the Wahehe, which by this time had learned Zulu methods of fighting, defeated the Wangoni. Even this did not give the country a rest. About 1891, the Wahehes revolted against the German occupation, and were not suppressed until 1896.[9] Nine years later, in 1905, the Maji-Maji rebellion occurred [10] and ravaged the country for two years before it was suppressed. After a seven years' respite, the World War broke out, and the East Africa campaign was strenuously fought in this area for a period of two or three years. As a result of three centuries of intermittent bloodshed, southern Tanganyika has had an evil existence.

These different invasions have inevitably modified the organization of Bantu society. The coastal strip under Arab influence has become detribalized and subject to the rule of Mohammedan law. In the north,

[7] *Report of the Sixth Session*, 1925, pp. 121, 176.
[8] Cf. Vol. I, p. 429, for the Ruanda frontier.
[9] A. Zimmermann, *Geschichte der Deutschen Kolonialpolitik*, Berlin, 1914, pp. 194 ff.
[10] Cf. Vol. I, p. 450.

great native kingdoms having Hamitic chiefs have been superimposed upon Bantu subjects. In the south, among the Wangoni and the Wahehe, exotic kings will also be found. In between these areas, one finds sturdy Bantu tribes, such as the Sukuma and the Nyamwezi, which comprise about a million people having a tribal organization less broken by alien influence than elsewhere.

3. *German Policy*

When the Germans entered this country, they found easily recognized tribal organizations only in the northwest part of the territory, in Ruanda, Urundi, and Bukoka. Along the coast and in the south, tribal organization had virtually disappeared. Consequently, the Germans established over Ruanda, Urundi, and Bukoka "residents" who ruled through native kings. The remainder of the country they divided into seventeen civil districts, each with a district commissioner (*bezirksamtmann*) in charge [11] and two military districts. The 1913 Estimates provided also for thirteen assistants who presumably were used in the general administration, and thirty-five secretaries. Assuming that all of these were engaged in the administration, a total of about seventy officials governed a territory larger than Nigeria, and having a population of 7,600,000. The German administration was thus greatly under-staffed, in comparison with the present British administration which has a staff that, according to the Estimates, consists of ten provincial commissioners, three deputy provincial commissioners, and one hundred and thirty-four administrative officers, a total of one hundred and forty-seven officials for a territory which does not now include Ruanda-Urundi.[12]

Because the administrative service was so grievously understaffed, the Germans were obliged to rely heavily upon native assistants. While they employed the chiefs in the large native states of Bukoka, Urundi, and Ruanda, elsewhere, because of tribal disorganization, they developed the Arab system of ruling groups of villages by alien native officials, called akidas and jumbes. The jumbe was usually the head of a single village; while the akida was the head of a group of villages. It appears that the Germans employed this system in the greater part of Tanganyika. Each akida would have as many as twenty thousand or thirty thousand

[11] The Bezirksamtmänner were paid from 8300 to eleven thousand marks each.

[12] A deduction of about one-third should be made for those on leave; but the same deductions should be made for the German figures. Local administration cost the Germans in 1913, 1,139,240 marks, or about 57,000 pounds; provincial administration cost the British in 1926-1927, 301,470 pounds.

The Germans had, on the other hand, an unusually large number of military officers, cf. Vol. I, p. 520.

people under him, and would be paid fifty to one hundred marks a month. The German administration never defined his powers.

The authority of the German *Bezirkshauptmann* or commissioner was defined in an Ordinance of 1891. In civil matters affecting natives, the jurisdiction of the commissioner was virtually complete.[13] He was assisted by a native judge or assessor, to whom he could assign important legal duties, especially where Mohammedan law was involved. In controversies where the subject matter exceeded a thousand rupees in value, the native could appeal to the governor.

In addition to fines and imprisonment,[14] the Germans (as do the British much less frequently) imposed corporal punishment except upon Arabs, Indians, and women. Sentences of flogging could be administered in two instalments of a maximum of twenty or twenty-five strokes each. The second instalment could not follow before the end of two weeks.

Fines in East Africa exceeding two hundred rupees (three hundred in the Cameroons and Togo) as well as sentences of imprisonment for more than six months, required the approval of the Governor. The final infliction of the death penalty was in his hands alone.

While native officials such as the liwalis[15] and jumbes were employed as assessors, it does not appear that they were granted definite judicial power.

Natives who entered into relations with employers as servants or laborers were subject, in case of desertion or failure to work properly, to disciplinary punishment by the district commissioner and station chiefs in the interior. This punishment consisted of flogging, subject to the limitations above; or two weeks' imprisonment.[16] Natives who violated their obligations under a labor contract were also subject, at the discretion of the employer, to three months' imprisonment, together with corporal punishment or a fine.[17]

As a result of this system, many abuses, it appears, were committed.[18]

[13] For the ordinance of May 14, 1891, and of April 22, 1896, cf. *Landes-Gesetzgebung des Deutsch-Ostafrikanischen Schutzgebiets,* pp. 196, 199.

[14] The Germans, like the Belgians and the Portuguese, chained their prisoners. It is interesting to note an instruction which said that "five years of imprisonment in chains is rarely survived, and . . . imprisonment in the African climate is more severe than in Europe, so that one year of imprisonment in chains in Africa is equal to five times as long in Europe. . . ." Five years' imprisonment in chains was regarded as equivalent to life. November 9, 1906, *ibid.,* Vol. II, p. 206.

[15] Cf. Vol. I, p. 271.

[16] *Ibid.,* Vol. I, p. 202. Except for the flogging and chaining of prisoners, these disciplinary powers are similar to those held by French administrative officials today. Cf. Vol. I, p. 1016.

[17] *Ibid.,* p. 327.

[18] Cf. Instructions of November 29, 1907, *ibid.,* Vol. II, p. 122. Cf. also Instructions of September 13, 1907, which said that corporal punishment was justified only after thorough investigation of a given case.

The German Government also [19] obliged the natives to maintain and construct roads. No time limit was fixed, and the labor was not compensated. Likewise, the laborers were obliged to feed themselves except when away from home.

In 1905, the Germans imposed a hut tax of three rupees which proved so unpopular with the natives that the government authorized a poll tax in 1912.[20] Because of the unlimited judicial power of the officials, the wide discretion vested in the native officials such as the jumbes and akidas, and the labor exactions of the government, which were unlimited by law, a number of revolts took place. The most serious of these was called the Maji-Maji rebellion, which occurred in 1905, in southern Tanganyika. Apparently its underlying causes were the hut tax and forced labor. The immediate cause of the outbreak was the incitement of native witchdoctors who said that the German bullets would turn to water if directed against natives who used their magic. Aroused by a semi-religious fanaticism, the natives killed a number of Europeans, which caused the Germans to embark upon a campaign of subjugation which lasted two years, and which led, directly and indirectly, to the death of between seventy thousand and one hundred and twenty thousand natives.[21] It does not appear that the Germans were troubled with further revolts during the remainder of their occupation.

4. *British Policy*

For several years, the British Government maintained, for the most part, the district organization which the Germans had installed, and governed the country through twenty-two districts. But in 1926, after making studies into the ethnic organization of the people, they grouped

On May 1, 1912, a deputy in the Reichstag declared: "Our civil and military administration of justice is simply untenable. . . . With regard to the right of native justice and administration, there exists an incredible insecurity concerning the powers of the administrative authorities in this sphere. . . . One judge uses the German penal code without further ado. . . . He uses the penal code without turning to the right or the left for the primitive conditions of the colonies. Another does not use the penal code at all. Yet another uses something analogous to it. . . . In short, our criminal proceedings are in a condition which must be stopped as soon as possible, which leaves the natives entirely without rights. That is how it happens that the punishment of flogging is used quite differently in individual colonies, and that in some colonies there is now an immense amount of flogging, whilst in others little flogging has been used. It is just the same as to remands, seizures, carrying out of punishments, and the way of accepting evidence and defence." Statement of Dr. Müller, quoted in *Handbook of the British Foreign Office* "Treatment of Natives in German Colonies," No. 114 (1920), p. 18.

[19] Ordinance of March 22, 1905, *Landes-Gesetzgebung,* p. 308.

[20] Ordinance of March 22, 1905, *Landes-Gesetzgebung,* Vol. I, p. 364; Ordinance of August 28, 1912, *Lexikon,* Vol. I, p. 517.

[21] Sir Harry Johnston uses the latter figure, in *Colonization of Africa,* second edition, Cambridge, 1913, p. 413.

these districts into eleven provinces, each in charge of a provincial commissioner, under whom were stationed district commissioners. In adopting this form of administration, the government has attempted to make the districts coincide with tribal groupings.

Sir Horace Byatt, the first Governor of Tanganyika, accepted the theory of indirect administration found in other British territories—that is, that the country should be ruled through its chiefs wherever they could be found.[22] Acting upon this theory, the administration decided to do away with the akida system. Since the akida was an alien, he really hindered (the officials believed) the institutional growth of the people over whom he was placed. Consequently, the government soon abolished the akida system in parts of the Mwanza district and in Kondoa Irangi. But chiefly because of the difficulties in finding out the real rulers, it could not at once abolish the akida system elsewhere. Along the coast, it appears that tribal rulers have altogether disappeared. Under such circumstances, the government will probably develop the system by which the akida, who may be either an Arab or a native, will be responsible to, and even in some cases elected by, a native council. Some such system of municipal self-government has already been established at the native city of Ujiji on Lake Tanganyika.

While Sir Horace Byatt theoretically upheld the principle of indirect rule, it has remained to the second governor, Sir Donald Cameron, formerly chief secretary of Nigeria, to carry it into effect. At present, it is based upon the restoration or establishment of (1) traditional authority; (2) native courts; (3) native treasuries.

5. *Traditional Authority*

The reasons for installing traditional authority were defined in a circular issued by the Governor in July, 1925, part of which reads as follows:

"Everyone, whatever his opinion may be in regard to direct or indirect rule, will agree, I think, that it is our duty to do everything in our power to develop the native on lines which will not Westernize him and turn him into a bad imitation of a European—our whole education policy is directed to that end. We want to make him a good African and we shall not achieve this if we destroy all the institutions, all the traditions, all the habits of the people, super-imposing upon them what we consider to be better administrative methods, better principles; destroying everything that made our administration really in touch with the customs and thoughts of the people. We must not, in fact, destroy the African atmosphere, the African mind, the whole founda-

[22] *Report*, 1922, p. 5.

tions of his race, and we shall certainly do this if we sweep away all his tribal organizations, and in doing so tear up all the roots that bind him to the people from whom he has sprung.

"It may be argued that we can achieve our object by continuing the present practice of using the chiefs as our instruments, as our mouthpieces through whom the orders of the Government are issued to the people, but with all the disintegrating influences that are at work to impair the authority of the chief over his people, e. g., the introduction of the 'Whiteman's Court,' the periods of absence on work where the orders are the orders of the 'Whiteman,' above all, the orders of the 'Whiteman' to the chief, that authority will be undermined and will completely disappear as certainly as it is disappearing in other parts of tropical Africa and in this Territory itself. One pauses to think when one sees the primitive Wagogo, who are probably not so far advanced in the scale of civilization as were the ancient Britons, brought suddenly and sharply in contact with a Western civilization in the market square of the Dodoma Township where they come to sell their cattle and their ghee.

"I say that if we do nothing to build up the native institutions, using them in the meantime merely as our instruments as long as it suits us to do so, they will be shattered and will disappear, and can we not see this around us already in Tanganyika? Large portions of the Territory are at this moment being administered by native political agents, often alien in race to the people on whom we have imposed them, because the tribal organization has been broken up or is in process of being destroyed.

"With the decay of the tribal organization we shall get a numerous body of broken and disgruntled chiefs, disaffected, quite naturally, and hostile to the Administration. The natives will have ceased to be tribesmen and, no longer attached to their tribal institutions, will have become mere flotsam on the political sea of Tanganyika. No native will have any share in the administration of the country, but a class of politically-minded natives will have arisen in the meantime (this must come with the spread of education, guard it as we may) and the seed of the agitator will have had a very ripe and fertile soil prepared for it.

"On the other hand we could employ the other method of trying, while we endeavored to purge the native system of its abuses, to graft our higher civilization upon the soundly rooted native stock, stock that had its foundations in the hearts and minds and thoughts of the people, and therefore on which we could build more easily, moulding it and establishing it into lines consonant with modern ideas and higher standards, and yet all the time enlisting the real force of the spirit of the people, instead of killing all that out and trying to begin afresh. Under this system the native becomes a living part of the machinery of government and the cry of the agitator for a large share in the administration of the country on western lines loses any weight that it might otherwise possess.

"But, in any event, what is the object of destroying the institutions of

the natives? It is quite impossible for us to administer the country directly through British officers, even if we quadrupled the number we now employ, and I cannot foresee any future political state in which it would be possible to do so except under a completely Europeanized system of government in which the native would express himself through the ballot box. The Advisory Council of Chiefs is as foreign to native thought as the Legislative Council, and can, I believe, have no real strength and enduring power for this reason. No system of administration of their own affairs through themselves and no vote (expression through the ballot box is inconceivable) must create a servile race, which, some day, will find other means of expressing itself. Why then destroy the instrument that we must use? An instrument that we temper and adjust and endeavor to perfect—it is necessary to think in centuries and not in mere decades—is surely a more efficient instrument than one which is thrown on one side to rust. . . .

"It has been said by some people that indirect administration is merely an easy way of shifting our responsibilities for good government on the shoulders of others. But this is to take a very narrow view of the question and ignores the vitally important principles which are involved. So far as I am concerned personally it would be much the easier path for me if I left things as I found them, but so convinced am I that the whole future of Tanganyika is bound up in this question that I should be lamentably lacking in my duty if I adopted that course. . . ."[23]

To attain the object of the restoration of traditional authority, careful studies into tribal history and institutions are now being made. While some missionaries are a little skeptical of the knowledge of administrative officials, these officials should at least be given credit for their efforts and their good will. Having learned where the seat of native authority rests, the administration proceeds to recognize and make use of it. The principle controlling the appointment of chiefs or sultans, as they have been called in Tanganyika, has been defined by the Governor as follows:

"The people must be held to be entitled to select their rulers and even to alter their constitution, since in pre-European days, no Chief or Family could withstand the united opposition of the tribe. It is to be borne in mind that when a native ruler is able to maintain himself solely by the power of the Government he is in the position of a Government servant foisted on the people against their will. These cases are to be handled with particular care, however, because opposition may emanate from a few mischief makers, or it may be due to the fact that an efficient and loyal Chief is unpopular merely because he does his duty. . . . It is important to remember that by continually deposing and setting up Chiefs we gradually fill the country with a class of dissatisfied individuals of whom every one will have a following, and their followers, may number many thousands."[24]

[23] Quoted in *Report*, 1925, pp. 6-8, 10.

[24] Circular No. 50 of 1925.

The Governor also declared:

"At this stage, it is far more important that we should as far as possible build up the authority of the Chiefs in order that the people of this country should take a proper place in the political future of Tanganyika than that we should seek a standard of excellence in the native which in the circumstances, it is quite unreasonable to expect that we should find. The officer who cannot recommend Native Courts because contact with European civilization is detribalizing his people is working on entirely wrong lines. . . . The deposition or rejection of a Chief on the grounds of mere inability or even indifferent character means nothing less than that the hereditary or lawful succession and the personal claims of the Chief are disallowed, the foundation of the tribal organization is weakened, and the Chiefs become purely Government Servants, selected according to competency. Rejection or deposition on account of incompetency is admissible only when the incompetency of a Chief amounts to grave and abnormal incapacity."

This statement illustrates the philosophy underlying the type of native administration of which the Tanganyika administration is a leading exponent. European standards of efficiency should not be forced upon people content with native standards unless native standards fall beneath a certain abnormal minimum in regard to the protection of native life and freedom from oppression. It is a philosophy which believes that natives should be immediately given a share in the administration, with the ultimate prospect of complete local self-government.[25]

Chiefs recognized on these principles are given certain definite powers, as well as an assured income. The first main power relates to the administration of the tribe. In this respect, the authority of the chief remains what it was under native law. If he ruled with the aid of a tribal council, he continues to rule with such a council. His powers are, however, regulated by the Native Authority Ordinance of 1926. This ordinance provides that the Governor may recognize native authorities for any specified area, and that he may direct that any native authority shall be subordinate to any other native authority.[26] By this means, the respective positions of a Paramount Chief in relation to a traditional sub-chief may be recognized. It is the duty of the native authority to maintain order and good government among the natives residing in his area, and to prevent the commission of any offence.[27]

Moreover, a native authority under the control of an administrative official and of his superior native authority may issue orders for eighteen

[25] The development of this principle in Nigeria is discussed on p. 688, Vol. I.

[26] The Native Authority Ordinance, No. 18 of 1926, *Tanganyika Territory Gazette* (hereafter cited as *Gazette*), Vol. VII, No. 41, Supplement No. 1.

[27] The provisions in this respect are similar to those in the Kenya ordinance. Cf. Vol. I, p. 362.

main purposes, such as prohibiting or controlling the manufacture and consumption of intoxicating liquors, preventing the pollution of the water in any stream, restricting migration of natives from or to the area under their authority and requiring any native to cultivate land to such an extent and with such crops as will secure an adequate supply of food for the support of such native and his dependents. Violation of these orders by natives within the area of the native authority concerned or interference with the exercise of the powers of the native authority may be punished with a fine of two hundred shillings or imprisonment for two months or both.

The native authority also has power under the Ordinance to make rules, subject to the approval of the Governor, "providing for the peace, good order, and welfare of . . . natives." Such rules may prescribe the fees to be paid in respect of any matter for which provision is made in the rules and may impose as penalties for violating these rules a fine of a thousand shillings or imprisonment for two years or both. The exact difference between orders and rules is not clear.

Offences under the Native Authority Ordinance may be tried by a European or by a native court.[28]

In the past, many European officers have issued orders in the name of the native authority after consulting the chief or sultan involved. Thus the British officials frequently declare a sleeping sickness quarantine in certain areas and instruct the chiefs to enforce this quarantine, under the Native Authority Ordinance. But usually these orders are issued in the name of the chief. For example, the Sultan of Unyamyembe, near Tabora, issues orders called "Tangazos" written in Swahili upon a typewriter. Presumably, with the development of the system of indirect administration, all such orders will be issued not only in the name of, but actually by, the chiefs.[29] In order to prevent divergent policies and the abuses arising

[28] The same courts may punish a native with a fine not exceeding one thousand shillings or imprisonment for one year or both for holding himself to be a chief, when he is not recognized by the Governor. Any person conspiring against the lawful power of a chief is liable to a fine not exceeding two thousand shillings or to imprisonment not exceeding one year. But such an offense cannot be tried by a native court; and no proceedings can be taken without the consent of the Governor.

Native authorities who wilfully neglect to perform their duties under the ordinance are liable to a fine not exceeding one thousand shillings upon conviction before a subordinate court of the first class.

[29] The government has the power to compel tax defaulters to work out their taxes. But if this is done, the native treasury loses its share of the money. So the Sultan of Unyamyembe, at the suggestion of the administrative official, issued a Tangazo telling headmen to see to it that prospective tax defaulters worked on the railway, at twenty shillings a month, to pay their taxes, rather than wait until the government obliged them to work out their tax.

Because of the local shortage of grain, one local chief issued a regulation under the Native Authority Ordinance that no native should brew *pombe,* a native drink,

out of such a wide grant of power, the administrative officers are now obliged to submit to the secretariat at Dar-es-Salaam monthly returns of orders issued under the Ordinance.[30] The orders cannot, of course, contravene the provisions of any existing law.

By means of these orders and regulations, each native Sultan, who is usually aided by a tribal council, may thus exercise a type of legislative power over his people.

6. *Native Courts*

The second principle of Tanganyika administration is the principle of native courts. These courts in pagan areas are invariably composed of chiefs. Native courts are of two classes, as follows:

A. First Class Courts, having jurisdiction to hear and decide:

I. Civil Cases

(a) in which the amount or subject matter does not exceed in value six hundred shillings, or

(b) relating to personal status, marriage and divorce under Mohammedan or native law, or

(c) relating to inheritances which are not governed by the provisions of the Deceased Natives Estates Ordinance, 1922: such jurisdiction shall be in addition to any jurisdiction conferred under the said Ordinance.

II. Criminal Cases, provided always that no punishment other than imprisonment of either description[a] for a term not exceeding six months and a fine not exceeding two hundred shillings and whipping not exceeding eight strokes shall be inflicted by such

[a] i.e., with or without hard labor.

without first obtaining the consent of his Mnangwa, a third class chief. But no Mnangwa should give such permission except in accordance with general instructions of his sultan. A later order prohibited the consumption of *pombe* in certain sultanates altogether.

Still another order prohibits the cultivation of native hemp; and another prohibits the burning of standing grass or bush without the permission of the administrative officer—an order issued at the request of the director of game preservation in furtherance of the anti-tsetse campaign.

Thus these orders are similar to the by-laws made by the native authorities on the Gold Coast, or the Native Court rules in Nigeria. Cf. Vol. I, pp. 689, 799.

[30] At the fourth session of the Mandates Commission, a member raised the question as to whether or not these orders gave to each district officer the initiative in making legislation. The representative of the British Government assured him that the officers could merely adapt general laws to local conditions. *Minutes of the Fourth Session,* p. 109.

In its report to the Council, the Mandates Commission noted that considerable latitude was given to officials in the control of native affairs. "With a view to facilitating its work, the Commission has requested the Representative of the mandatory Power to insert in subsequent reports such detailed information as will enable the Commission to estimate the extent to which local administrative officers avail themselves, particularly in criminal cases, of the latitude allowed them." *Report on the Work of the Fourth Session of the Commission,* A. 15, 1924, VI, p. 7.

Court, and that in no case where fine has been ordered shall the imprisonment passed upon the offender in default of payment of fine together with the original term of imprisonment (if any) exceed a total of six months. Provided that a sentence of whipping shall require to be confirmed by the Supervisory Court.

III. Appeals from Native Courts of the Second Class.

B. Second Class Courts, having jurisdiction to hear and decide:

I. Civil Cases

(a) in which the amount or subject matter does not exceed in value two hundred shillings, or

(b) relating to personal status, marriage and divorce under Mohammedan or native law, or

(c) relating to inheritances which are not governed by the provisions of the Deceased Natives Estates Ordinance, 1922: such jurisdiction shall be in addition to any jurisdiction conferred under the said Ordinance.

II. Criminal Cases, provided always that no punishment other than imprisonment of either description for a term not exceeding one month and a fine not exceeding fifty shillings and whipping not exceeding six strokes shall be inflicted by such Court, etc.[31]

Neither of these courts, however, has jurisdiction in cases involving the death penalty or imprisonment for life, cases in connection with civil or Christian marriages (except where both parties are of the same religion), witchcraft cases, cognizable offences in townships, and cases in which a party is not a native. Thus the British system of native courts, in contrast to the German system, has a well-defined jurisdiction in purely native cases. The jurisdiction of the native courts in Tanganyika is much less, however, than that of some of the courts in Uganda and Nigeria.[32]

Appeals may be taken from a second to a first class native court, presumably when the first class court is presided over by a Paramount Chief and the second class court by a chief owing him allegiance. Appeal from the first class court may also be taken to the administrative officer, who acts as a "supervisory court." Moreover, a supervisory court may, of its own motion, revise any of the proceedings of any native court, and may give sanction for an appeal to the High Court. Every sentence of imprisonment passed by a native court must be submitted to a supervisory court for inspection, and the supervisory court shall sign the warrant for commitment before a person sentenced by a native court can be imprisoned. No sentence

[31] Native Courts Proclamation, 1925, issued under the Courts Ordinance, 1920. *Report*, 1924, p. 77.

[32] Cf. Index—native courts.

of whipping may be carried out until it has received the approval of the supervisory court.[33]

The fees levied in native courts are fixed at five per cent of the amount involved in civil cases. Originally, fees and fines went into a native court fund, which, under the control of the district officer, was applied to the maintenance of the courts, the payment of judges, and expenditures for the benefit of the district. But such funds have now been merged with the native treasuries which we shall now discuss.

7. *Native Treasuries*

In this part of Africa, it has been the custom of each Paramount Chief or sultan to collect tribute from his subjects in order to enable him to meet the obligations to which every such authority is subject. Likewise the chiefs have exacted unpaid labor obliging their people to work in their fields and to construct their compounds. It was the German policy to supplement this customary tribute with a stipend of one to three per cent of the hut and poll taxes collected with the aid of these chiefs—a system which the British maintained until April, 1925.

Originally, the chiefs or sultans of Tanganyika used the contributions of their subjects for tribal purposes; they maintained a war chest, provided for the poor, and furnished the people coming to tribal assemblies with food. With the opening up of European markets the situation changed. It now became possible for the sultans to use the tribute, which usually took the form of crops, not for the benefit of the people, but as a source of commercial profit. Consequently, many of them sold these contributions to European traders and pocketed the revenue. This source of income was so lucrative that they were tempted to increase their demands for tribute until—especially following the World War—the people began to cry out for relief. The sultans justified these exactions on the ground that they had no other adequate source of revenue, and that these sums really went for tribal or kingly purposes.

Thus the Sultan of Ugundu had an income in the form of produce which was valued at about 12,500 shillings a year. Two-fifths of this sum he distributed as salaries among his sub-chiefs. The sultan spent about two thousand eight hundred shillings in the support of the twenty-five members of his household, including his wives, while he devoted the balance to the entertainment of visitors and charity. Sultan Saidi of Tabora in 1922 had an official income of six thousand shillings—his three per cent from tax collections. Of this sum, he distributed four thousand

[33] Cf. Native Court Rules, 1925, *Report*, 1924, p. 75.

shillings as salaries to his thirty-two sub-chiefs. In the same year, he expended eight thousand shillings upon the poor and in entertaining visitors. He made up the deficit from the tribute in the form of grain which amounted to forty-eight thousand shillings, or about four shillings per subject. Likewise, he received unpaid labor estimated to have a value of 66,248 shillings—making a total of 114,648 shillings for the year, or about 5,735 pounds—a sum which the Sultan administered entirely on his own responsibility. In addition to meeting these demands, the natives were obliged to pay a hut and poll tax to the British Government.

While admitting the necessity of an income for their chiefs many natives said that the tribute system was irregular and therefore liable to abuse. Moreover, the government believed that constant exactions of free labor for the chiefs interfered with the economic development of the community and that much of this revenue was indirectly due to the European occupation of the territory. That is to say, the sultans could not sell their grain and procure these sums if it were not for railways and markets provided by Europeans. The legality of these exactions under the mandate [34] was also questionable.

These considerations led the Tanganyika Administration in 1924 to decide to increase the hut and poll tax from six shillings to ten shillings so that the added revenue could be used to commute, in the form of salaries for the chiefs, tribute in kind and unpaid labor, which should be abolished. In most cases this did not mean an increased burden upon the native, since he now merely paid the equivalent of the former tribute to the government. But upon his arrival, Sir Donald Cameron, bringing with him the Nigerian tradition,[35] decided that instead of turning over the whole of the commuted sums to the personal use of the chiefs, part of these sums should go into native treasuries from which the tribe should profit as a whole.[36]

Consequently, the administration in April, 1925, abolished all tribute in favor of the principle of native treasuries.

Government officials discussed the whole question of establishing native treasuries with the chiefs and people at meetings called *barazas*. In order to determine what salaries should be paid the chiefs out of the treasuries, they asked the chiefs to estimate the value of past tribute, and particularly the share which they had expended upon themselves. Having thus secured native approval, the administration proposed to organize native treasuries, one of which will eventually be instituted for each native authority. Native treasuries are also being organized even in districts where tribute did not exist.

[34] Cf. Vol. I, p. 468. [35] Cf. Vol. I, p. 688. [36] *Report*, 1925, p. 11.

To the sultans, these native treasuries are satisfactory since they now receive a regular instead of an uncertain form of revenue, while they have actually become more popular with the people, now relieved of the irregular exactions of the past. To the natives, the treasuries mean not only a better chiefdom, but expenditures for the common good.[37] About two-thirds of the funds now in the native treasuries are expended on salaries for chiefs and sub-chiefs, which usually include the salaries of native judges. The remainder constitutes a Common Purpose Fund which is used for the benefit of the community.[38] An early instance of the value of this principle occurred in the Dodoma district, where the people have for a number of years suffered from the lack of water, as a result of which their cattle have periodically died from thirst. Several years ago, the chiefs stated that they could find water if they were given help in sinking wells, whereupon the Governor asked them if they would consent to setting aside several hundred pounds from their treasury. The chiefs at once agreed and at the end of two months they found and dug twenty-five wells, acting under European advice, and thus secured a water supply. By such means, the natives are being taught to help themselves.

The Estimates for each native treasury are drawn up by the native authority concerned, with the advice of his tribal council, wherever it exists.[39] Sometimes the initiative in expenditure comes from the sultan, and sometimes from the administrative officer who advises him. Having been drawn up by the native authority and the local administrative officer, the Estimates go to the provincial commissioner and then to the Governor for approval. The clerk of the native authority keeps a cash book and also a vote book which determines how much he may spend each month. The administrative officer countersigns all checks. In some sultanates, the monthly salaries of a dozen head-chiefs are paid in a lump sum to the sultan, who distributes each individual salary upon his own responsibility. Each payment must be entered in the cash book by the native clerk. In building native court houses, which are being constructed in each tribal unit throughout the territory, the administrative officer in many cases

[37] In some cases, however, the sultans complain that their salaries are too low. Thus Sultan Saidi, who received six thousand pounds in tribute, now receives from the native treasury only one thousand pounds, upon which he must support seventy wives. The government will probably consent to an increase in his salary.

[38] In one budget in the Mwanza district, the gross revenue at ten shillings a head amounts to 76,400 shillings, 25 per cent of which, or 19,100 shillings, is given to the native treasury. Of this sum, thirteen thousand shillings go to the salaries of chiefs and headmen, while about six thousand shillings go into a Reserve and Common Purpose Fund.

[39] The Tanganyika Government, following the policy of Nigeria, does not believe in the establishment of artificial native councils, such as exist in South Africa, Kenya, and French West Africa.

merely suggests the general plan, but leaves the actual construction to the sultan concerned. As yet, Tanganyika has not considered the desirability of assigning European engineers or doctors to native treasuries, apparently because the treasuries are still in an embryonic state.[40]

8. *Tribal Amalgamation*

Many of the tribal units in Tanganyika are too small to finance projects large enough really to advance communal interests. A community having only a few hundred taxpayers cannot purchase the cooperative equipment or tools which it is possible for a treasury supported by several thousand taxpayers to purchase. This condition now confronts the Mwanza district, where there are four hundred and fifty thousand people belonging to one race but divided up into several dozen tribes, each having its own treasury. If the principle of native treasuries is to succeed, the amalgamation of smaller tribes into larger groups must be brought about.

Several of these amalgamations are already taking place. In the Shinyanga sub-district, a very intelligent people, the Wasukuma, are found. They number about 1'20,500 souls, who until recently were divided up into nine independent sultanates, each of which had between three thousand and eight thousand five hundred members. As long as each sultanate remained independent of the other, freedom of movement was restricted. One sultanate in an area infected with tsetse fly could not move into clear areas under the jurisdiction of another sultan. The Common Purpose Fund of eight hundred taxpayers could not erect dispensaries, purchase stock, nor provide for dipping facilities as could a united Common Purpose Fund. Consequently, the native chiefs, after discussing the matter with the British authorities, came to see the advantages of consolidating these different units of the same race. The sultans agreed to elect a leading sultan as paramount chief of the Wasukuma people, and another leading sultan as prime minister. The nine sultans were to retain their titles and courts and form a tribal council, but they were to recognize the paramountcy of Makwaia bin Mwanda. Before approving the plan, the British Government insisted that the establishment of this federation should meet the approval of the people. Upon investigation, it was found that the natives in one sultanate opposed the federation unless their Sultan, Wamba, should be made paramount chief. The chief already selected, Mwanda, said that he would gladly retire in favor of Wamba; but despite this concession, Wamba's people—one family was hoping soon to succeed him—decided that their sultanate should stay out of the

[40] For the Nigerian system, cf. Vol. I, p. 697.

federation. At this decision, the remaining chiefs decided to postpone the selection of a paramount chief. But they nevertheless established a federation and a common treasury, having a president and vice-president, periodically elected. The budget of the Wasukuma confederation is as follows:

1.	Salaries of 8 sultans	17,220 shillings
2.	Allowances to president of the council	600
3.	Clerks (12)	2,250
4.	Councillors (Advisors) 3	3,720
5.	Messengers (45 at 120 a year; 4 at 96)	2,892
6.	District headmen (37 at 240; and 6 others)	5,700
7.	Village headmen (29 at 120)	1,740
8.	Transport and traveling expenses	9,460[1]
9.	Sultanate building and upkeep	11,200
10.	Presents, rewards, and entertainment	2,300
	TOTAL EXPENDITURES	57,082
	Contingencies and reserves	18,214

[1] Includes 7,000s. for motor car and bicycle.

Likewise in the Tabora district, the Wasumbwa people were found by British officials to be divided into two separate divisions. After discussion, these people agreed to amalgamate, as did the so-called Wasagali Sultanates. It appears, however, that in one or two cases, amalgamation was the result of administrative pressure rather than of popular conviction. The administration has definitely instructed local officials not to urge these unions against the wishes of the people. The establishment of periodic councils of chiefs belonging to the same race, such as the Nyamwezi chiefs, would do something toward developing a solidarity of feeling which might lead these peoples to seek closer union in the future.

Thus by means of the powers controlled by the Native Authority Ordinance, of the native courts, and especially of native treasuries, the British Administration has installed the principle of indirect administration in Africa. It is a system which is not only training natives to govern themselves, but which is bringing about the amalgamation of tribal units into a single government. Tanganyika and Nigeria are the only territories in Africa where the system is actually being employed.[40a] While in Nigeria, the policy has been applied with success only to comparatively large native states, Tanganyika is endeavoring to apply the policy to small tribal units. Inasmuch as the small tribal unit exists throughout Africa to a much greater extent than the large native state, the success of Tanganyika's experiment may have consequences of the greatest importance.

[40a] For the efforts of the Belgian Congo. Cf. Vol. II, p. 483.

9. *The School for Sons of Chiefs*

If the experiment is to succeed, the natural rulers of the people cannot remain the most conservative elements in the community, blind to the new world in which they live. If they do not rise to the intellectual level of other members of the community, sooner or later the educated class will break down the traditional authority.

Realizing this danger, the Tanganyika Government has established at Tabora one of the most interesting schools in Africa—a school for sons of chiefs. The purpose of this school is not only to give the future rulers of the people a cultural education, but to give them training in the duties of citizenship and a conception of their obligations to the community.[41]

An effort is made to get boys to enter the school at the age of eight or nine. If the mind of a boy is not stimulated before puberty, it is the universal experience that it is impossible to stimulate it after that age. The course of instruction covers six years. During the first three years, the boys receive an ordinary education given in Swahili, which includes the three "Rs". In addition, they study and practice agriculture and hygiene. In the second three years, they acquire some English, not as a subject, but incidentally to courses in other subjects. They are given work in bookkeeping, in which they employ the forms used by the native courts and the native treasuries. The school has a herd of fifty cows and two graded bulls with which it demonstrates cattle husbandry. The production of a native cow is under two quarts of milk a day, but the school shows the boys how by improved care a cow will give twelve quarts a day. Likewise it has butter-making machinery of a type simple enough to be introduced into a native community. The school has a thousand acres of land, half of which is used for the herd and half for the farm. The boys work in the gardens at least an hour a day, in addition to studying the nature of food crops and agricultural subjects. The school has a flock of White Wyandotte chickens, and maintains simple bee-hives which will enable the people to secure a greater yield of beeswax and honey than by native methods. By working in a carpenter shop, the boys learn how to improve native housing. They are taught the principles and mechanics of sanitation on the one hand, and of fertilization and irrigation of the soil on the other. From the beginning, they are given instruction in singing, especially of native songs. A course in citizenship imparts principles of conduct, including sexual hygiene. They read Æsop's Fables in Swahili. Although the government does not give religious instruction in

[41] Cf. the Report of the Headmaster, *Annual Report of the Education Department,* Tanganyika, 1925, Appendix IV.

the school since nearly half of the boys are Mohammedans, it allows missionaries to enter the school for this purpose.

Probably the greatest value of the school is the spirit in which it is conducted. The students, who number about a hundred, and who include sixteen reigning sultans [42] are organized into tribes. Each tribe elects its chief, who invariably is a son of a leading chief. The boys do their work in tribes, and they live, as far as diet and housing is concerned, in tribal groups along improved native lines. Cases of discipline come before a school court modelled after a regular native court. The chief of the tribe on duty for the day acts as judge; and the other chiefs sit on the council. Before judgment is made, the judge asks the chief of the tribe of the defendant what his opinion is;—a procedure which makes it less likely that the chief will favor his own man. The opinion of the majority is followed, and the punishment, which must be approved by the European Master, usually consists of extra duties or of a school caning by a school sergeant major in front of the whole school.

The school has a store and a bank where boys are urged to put their spending money sent them by their parents. At the end of one term, one boy bought fifty-six shillings' worth of school books to take home; and another wanted to buy an expensive map, costing ten pounds, to show his people what the outside world looked like! Out of the profits of the store, the school took a group of the leading students with the best marks to Dar-es-Salaam, where they were the guests of the Dar-es-Salaam Central School, in the Christmas holidays of 1925. Many of these boys had never seen the ocean nor a Europeanized city before.

By means of this school, many of the future rulers of Tanganyika are receiving not only a literary education, but a simple knowledge of western science, the application of which will result in the immediate improvement of the life of their communities. Added to this, they receive a discipline and a training in character which only the English public school system can bestow.

Such are the splendid efforts of the British Administration to develop a civilization in Africa rooted in the native stock. If unaffected by other factors [43] the future of native policy in Tanganyika looks bright.

10. *Government Labor*

Every government in Africa employs a large number of native laborers, either for administrative or construction purposes. Political officers peri-

[42] The "thrones" are in charge of a regent until they become of age.
[43] The question of land and labor is discussed in Chapter 29.

odically go on long *safaris* [44] into areas penetrated neither by railways nor roads; and they must rely for the transport of their belongings, whether food, clothes, or tent, upon native carriers, who carry upon their heads a load weighing fifty or sixty pounds. These carriers usually go a journey of fifteen or twenty miles a day. This system of porterage is described by the Tankanyika Labor Commissioner as follows:

". . . Costly, slow, inconvenient, and intensely unpopular with most tribes, it represents a stage of development from which we should escape at the earliest possible moment. As an illustration of the amount of labor absorbed in this form of employment may be cited the figures for the station of Kilosa; during the year 1924, porterage for Government loads alone accounted for 400,000 working days, i.e., the entire labor force of a considerable plantation. In addition to this, there were probably even larger numbers engaged by private employers, since the economic development of the country still largely depends upon head porterage. The above is a good example since it has been possible this year to introduce motor transport from Kilosa to Iringa, with the result that the former figure has already been largely reduced. Many other stations, however, present almost equally startling figures; in fact, the numbers required for Government transport alone, must be positively colossal for the whole Territory. . . . Certain departments are responsible in particular for such employment; the King's African Rifles and the police requiring large numbers, while the undertakings of the Public Works Department sometimes involve much porterage. For instance, the periodical relief of the small detachment of troops at Songea requires transport equivalent to the work of 800 men for two months, at a cost to Government of £600; the necessary supplies of arms, ammunition, clothing and equipment, also occupy large numbers." [45]

Military officers sometimes decide to move camp in the midst of the native planting season, and expect the political officers to provide them with porters. European traders and native farmers wishing to evacuate their crops likewise require porters. In the Tabora district, natives carry six or seven thousand tons of crops a hundred miles to the railway station annually. To quote Major Orde Browne again, ". . . Many thousands of tons of grain are exported every year, and it is probably well within the actual facts to say that this represents an average of three days' head carriage for every fifty pounds. Native-grown cotton, again—a valuable crop—is frequently carried fourteen days' journey, and even more; all native produce in fact, involves more or less labor for its transport, frequently to an extent which prevents further development." [46]

[44] The Swahili word for journey.

[45] Report by Major G. St.J. Orde Browne, O.B.E., upon *Labour in the Tanganyika Territory,* 1926, Colonial No. 19, pp. 36-37.

[46] *Ibid.,* p. 37.

This porterage, both for administrative and for private purposes, constitutes not only an immense waste of time but a frightful physical drain upon the population. Porters frequently carry loads beyond their physical capacity. In many cases, they go long distances without adequate nourishment, and are subjected to over-exposure. Porters, therefore, not only become susceptible to disease, but they become the instruments by which disease is carried from one community to another. The remedy for porterage, both administrative and private, is the introduction of transport facilities, which in Africa must be a task of the government. It is the objective of the Tanganyika Administration and of every administration in Africa to cover the territory with a network of railways fed by branch roads and motor transport, which will, in the course of time, do away with the necessity for human carriers.

In order to construct such a system of transportation, labor is necessary. The African native does not, however, understand the benefits which he would derive from improved transport facilities. The governments of Africa are therefore often obliged to conscript labor if this work is to be carried out.

The Tanganyika Mandate recognizes that compulsory labor for "essential public works and services" is justified, but only in return for "adequate remuneration." In order to place these exactions under the control of law, the Tanganyika Native Authority Ordinance of 1926 provides that the native authority may issue orders [47] conscripting paid labor for essential public works and services, provided always that no person shall be engaged for work (1) for a longer period than sixty days in any one year; or (2) if he has been employed during the year in any other work for a period of three months. The word "employed" would appear to apply to a native farmer working for himself, as well as a native wage-earner.[48]

Although the Tanganyika Native Authority Ordinance does not define what is meant by "essential public works and services," the scope of this phrase is restricted as follows:

A. Requisition of labor, whether paid or unpaid, for the following purposes is prohibited: (1) employment in cotton ginneries; (2) transport of loads of any sort for private persons; (3) cultivation of gardens for sultans or other native authorities; (4) construction of buildings for sultans.

B. In case voluntary labor is not available, labor may be requisitioned, provided it is paid for, (1) for building houses needed in the execution of official duties by government employees, such as quarantine or forest guards; but this does not apply to housing in government stations; (2)

[47] At the direction of an administrative officer, cf. Vol. I, p. 454.
[48] For the interpretation in connection with Kenya, cf. Vol. I, p. 372.

transport of loads for native authorities and government employees when traveling on duty; (3) conveyance of letters between native authorities and between them and government officials; (4) construction of school buildings proper; (5) clearing tsetse fly bush in native areas for health purposes; (6) conveyance by canoe of native authorities, witnesses, and prisoners to an administrative station; (7) building quarantine kraals or segregation camps and erecting, repairing, cleaning, and procuring materials for government rest camps, native court houses, and necessary huts; and (8) loading and discharging steamers in emergency.[49]

Despite these restrictions, the Ordinance places full discretion upon each native authority and the local district commissioner as to the extent to which compulsory labor for these purposes should be used. Unlike the Uganda and Kenya Native Authority Ordinances, the Tanganyika ordinance does not require the previous consent of the Secretary of State before labor can be called out under these provisions.[50] It seems strange that the natives in the two non-mandatory territories should receive greater protection in this respect than natives in a mandated area. Except for porterage, it would appear that the use of such labor, if not sanctioned by the Secretary of State, should be controlled exclusively by the Secretariat at Dar-es-Salaam.[51]

The difficulty with any compulsion for public work is that once accustomed to using it, administrative officials do not make adequate efforts to secure voluntary labor. The Tanganyika Railway so far has avoided these difficulties by utilizing private contractors who provide their own laborers. These contractors are regarded as private employers who are, therefore, not entitled to government aid.[52] Under this system, railway construction so far has been carried on by voluntary labor. The situation is different with the Public Works Department. According to the report of the Tanganyika Labor Commissioner,[53] "The method of recruiting for this Department is at present unsatisfactory and is responsible for most of the compulsory labour which has to be requisitioned for 'works of public utility.'" Wages for this labor are fixed by a Central Wage Board, and the figures, consequently, do not, in many cases, correspond with the market wages where the labor is employed. Natives consequently dislike working for the government and when obliged to work they do as little

[49] Ruling of June 10, 1925.

[50] Cf. Vol. I, p. 371.

[51] Apparently the Colonial Office has adopted a different policy because forced labor was employed so widely by the Germans before the World War that the Tanganyika natives have to be educated up to a standard which Kenya and Uganda natives have already presumably reached.

[52] For a different ruling in the early days of the Belgian Congo, cf. Vol. II, p. 503.

[53] *Labour in the Tanganyika Territory, cited,* p. 58.

as possible. It is understood that the administration has recently ruled that compulsion is not to be employed until it is proved that voluntary labor cannot be obtained at market rates.

Labor is also frequently called out in the midst of the planting season, which makes the government and the work unpopular. The Tanganyika Government is considering the advisability of placing the recruiting of all government labor in the hands of the Labor Commissioner—a step already taken by the Uganda Government—and adopting a wage system which will correspond more closely to market conditions.

11. *Communal Labor*

In addition to compulsory paid labor for public works, the administrations of practically all British Colonies oblige natives to perform from twenty-four to thirty-two days of unpaid labor a year for communal purposes, such as the maintenance of local roads. But the Tanganyika mandate prohibits compulsory labor even for essential public work and services except in return for "adequate remuneration."

Without awaiting a ruling of the Mandates Commission on the question as to whether or not this provision prohibits the exaction of all unpaid communal labor, the Attorney General of Tanganyika declared [54] that the "provision of labour for Chiefs without regard to the nature of the work upon which the labour is employed is contrary to the terms of the Mandate and no legislation can be enacted to legalize any such custom. On the other hand, the requisitioning of paid labor for works which are in their nature essential public works and services" may be exacted, but "adequate remuneration must be paid." It would seem that the same logic would make illegal the maintenance of roads by unpaid labor. The Tanganyika Native Authority Ordinance (section 8) does not confer upon headmen the power to call out unpaid labor for communal purposes as do the Native Authority Ordinances of Uganda and Kenya. Nevertheless the Tanganyika Administration still employs such labor for road maintenance purposes.[55]

This practise does not seem to accord with the obligations of the mandate.

[54] Circular No. 13 of 1925.

[55] Cf. the Governor's Despatch accompanying Orde Browne's Report on *Labour in Tanganyika, cited.*

CHAPTER 28

THE IMPROVEMENT OF NATIVE LIFE

TANGANYIKA is not only developing the group life of its people by the means outlined in the last chapter, but it is improving individual life as well. This task falls primarily upon the departmental in contrast to the political officers—upon the medical, the sanitary, the educational, the agricultural, the veterinary, and the forestry services. To facilitate their activities, and to bring the interior native into contact with the outside world, the Railway, Posts and Telegraphs, and Public Works Departments are steadily knitting the territory together. Peace and order are maintained by the Department of Police and by the King's African Rifles.

1. *The Medical Service*

Tanganyika, along with the vast majority of other African territories, is under-populated. While the territory has an area as large as that of Nigeria, it has only a fifth of Nigeria's population, or about four million. This population is, moreover, unevenly divided. While in one district, Tanga, the density is 37 per square mile, in four districts (Songea, Kilwa, Bismarckburg, and Iringa) it is less than four per square mile.[1] Tribal wars and the tsetse fly are responsible for the fact that the population lives in unevenly distributed groups. Thus one-third of the Tabora district is uninhabited.[2] The average density of population throughout the whole of Tanganyika to-day is only eleven per square mile.

While tribal wars and slave expeditions were originally responsible for this depopulation, German punitive expeditions and the fighting between Allies and Germans in Tanganyika during the World War constituted further drains upon the country. Presumably fighting has for the time being come to an end, and population should therefore begin to increase. Nevertheless, the native of Tanganyika suffers from disease as do the natives of other parts of Africa. He is particularly subject to the scourge of the tsetse fly. Consequently, the Medical Service of the government is all-important from the standpoint of saving human life and of increasing the birth-rate. Efforts made toward these ends are not entirely human-

[1] Cf. *Die deutschen Schutzgebiete,* p. 37, statistical part.
[2] *Ibid.,* part I, p. 9.

itarian, inasmuch as the territory can never yield its greatest economic returns until it has a population large enough to develop its resources.

Appropriations for the Medical Service in Tanganyika have increased from about ninety-one thousand pounds in 1920-21 to one hundred and ninety-three thousand pounds in 1926-27. While the Estimates call for forty-nine medical officers,[3] it has been impossible to find a sufficient number of officers for this quota. In 1924, there was a shortage of fourteen medical officers.[4] According to the Estimates figures, there is approximately one European doctor for every eighty thousand people in Tanganyika—a situation much better than that in Nigeria where there is one doctor for each one hundred and forty thousand people. The government also employs fifty-one Indian sub-assistant surgeons, while it maintains forty-six native hospitals with a total of 1650 beds. In 1924, the different medical stations treated one hundred and sixty-eight thousand new cases; in 1925, the number was over two hundred and seventy thousand.[5]

The Medical Service has set as its goal the following organization for each administrative district:

a. District medical officers
b. European sanitary superintendents
c. District African sanitary inspectors
d. Venereal disease and Yaws mobile clinics
e. Maternity and child welfare centers under the supervision of European nursing sisters
f. Qualified dispensers in charge of district dispensaries
g. Tuberculosis sanatoria, at or near the larger towns
h. Mobile clinics for surgical work[6]

Eventually under this plan, each district in Tanganyika will have a medical officer in charge of a dispensary or hospital, and a large number of native dispensers. To realize this program, more doctors will be required, and it is doubtful if they can be recruited in England. Inasmuch as Tanganyika is a mandated territory, it would be an act of international goodwill, in keeping with the spirit of the mandate, if the British Government would invite German doctors to enter the Tanganyika service.[7]

Realizing that the prevention of disease is easier than the cure, the Medical Service has a sanitation division, in charge of a senior sanitation

[3] In addition to the director, two deputy directors, a director of the laboratory, and a venereal disease officer.
[4] *Annual Medical Report,* 1924, p. 2.
[5] *Reports,* 1925, p. 37. For a comparison with Kenya and Uganda cf. Vol. I, p. 386.
[6] *Annual Medical Report,* 1924, p. 50.
[7] For precedents in regard to Italian and Russian doctors, see the index.

officer, which conducts campaigns against epidemics and looks after the problem of sanitation in the towns. To increase the effectiveness of this service, the government is training native sanitary inspectors. The first type of inspector receives nine months' instruction in sanitation and English. His job lies in the towns and consists of inspecting the living quarters of natives, Indians, and Europeans, to see that they conform to sanitary regulations. Not infrequently, these native guards bring European housewives into court for improper disposal of garbage. Since these duties require tact and character—a native in such a job is frequently offered bribes—the administration is slow in picking out these inspectors. The second type of inspector works in the native villages and therefore need not know English. After receiving a three months' course in elementary sanitation, the government assigns an inspector a group of villages to patrol. Inspectors may give vaccinations, and may advise the chiefs as to sanitation. Their principal work, however, is to detect the beginnings of epidemics. In this respect, they serve as the eyes and ears of the European administration. In 1926, one hundred and fifty such inspectors were in the field. While it appears that Uganda is doing more than Tanganyika in training native medical despensers, Tanganyika is apparently leading British Africa in the training of a corps of natives for purely preventive work. The administration is now discussing the establishment of a medical school for native dispensers.

2. *Sleeping Sickness*

Despite the ravages wrought in man and beast by sleeping sickness,[8] caused by the bite of the tsetse fly, the Tanganyika Medical Service has not organized special units to combat the disease, such as have been organized in the Belgian Congo and the French Cameroons.[9] The campaign against sleeping sickness is now handled, for the most part, by other departments whose work is of a preventive, rather than a curative nature.

The tsetse fly is now found in an area which covers between a half and two-thirds of Tanganyika. Investigation has shown that while the *glossina morsitans* breeds in thickets, it does not propagate itself in cultivated ground or in high and thick forests.[10] Consequently, officials have conceived the idea of destroying the breeding place of the fly as the surest and easiest way of eliminating it from the country. Under the direction

[8] Or trypanosomiasis.

[9] Cf. Vol. II, pp. 348, 579.

[10] There are two general types of trypanosomes (*i.e.* the parasites which cause the disease) the first of which is called *glossina morsitans,* and the second of which is called *glossina palpalis.* The distribution of the *glossina palpalis* is confined to a narrow area bordering on rivers and lake shores. *Glossina morsitans,* which is not so dependent upon water for its existence, is found throughout East Africa, while *glossina palpalis* is found in the Belgian Congo as well as elsewhere.

of the Game Preservation Department, natives are cutting away or burning the bush in vast fly areas, in accordance with a concerted plan. When the order is given, the flies are driven into fire "traps" by this burning, and thus meet their death. When an area is cleared, it is either turned over to grazing or to cultivation, both of which keep down the bush. Upon entering a fly cleared area, a traveler is stopped by a native guard wearing a letter "T," who sees to it that his vehicle does not bring flies into the area. These clearing methods—which would be impossible in the Congo on account of dense tropical forests—require an immense amount of labor even though Tanganyika is a savannah country. But they seem to be the best hope of eliminating the disease. To carry on this work, the employment of compulsory labor, in the absence of a voluntary supply, would appear to be justifiable.[11]

3. *Veterinary Work*

While the Veterinary Department has participated in the campaign against the tsetse fly, its other activities have been of more importance to native welfare, as the inhabitants of Tanganyika own nearly four million head of cattle and as many sheep and goats.[12] According to the 1926-27 Estimates, Tanganyika supports a staff of sixteen veterinary officers and twenty-five stock inspectors. In 1925, the European staff traveled an aggregate of seventy thousand miles in the pursuance of its work (apart from ordinary train travel). A native staff of a hundred veterinary guards traveled two hundred and fifty thousand miles. It is estimated that, except for the livestock in the Kigoma district, practically all livestock in the territory was examined six times by the department during 1924.[13]

As a rule, a veterinary officer or stock inspector is assigned to each administrative district [14] which usually contains from two hundred thousand to three hundred thousand head of cattle. Under him are a number

[11] Compulsory labor for such purposes is authorized by the Native Authority Ordinance, 1926. The activities of the Game Preservation Department have also been directed towards saving the lives of natives from the depredations of wild animals. In Tabora, lions frequently enter the city and take human life. Because of the provisions of the St. Germain arms convention, natives are unable to obtain arms of precision without special license, and hence in some cases have no adequate means of protecting themselves. For a time, the government issued special licenses to European game-hunters to protect native villages, but the plan proved unsatisfactory. The present policy is to employ native "cultivation protectors" whose job is to exclude animals from defined areas, either by shooting or by trapping them. Cf. *Report*, 1925, p. 23.

[12] *Tanganyika Territory Blue Book*, 1924, p. 153.

[13] *Annual Report of the Department of Veterinary Science and Animal Husbandry*, 1924, p. 1.

[14] In some cases, an officer must, however, cover more than one political district.

of native veterinary guards, each of whom is responsible for a number of villages owning from ten thousand to twenty-five thousand head of stock. These guards, who must know Swahili, undergo a training for at least nine months. They keep a register of the cattle owners under their supervision, and if possible, inspect each owner's cattle once a week. The principal object of their work is to detect and eliminate cattle disease, the most important of which is rinderpest. As a result of their efforts, and of the use of serum and quarantine methods, rinderpest has been eliminated from all but five administrative districts in the territory. Following the elimination of this disease in the Iringa district, the number of cattle doubled in four years.[15]

The department is also helping the natives to produce ghee butter for export by establishing a ghee post in the midst of each community owning from ten thousand to twenty thousand head of cattle. Here a grass hut is put up, and a number of caldrons set over holes in the ground in which the butter is boiled until it turns into ghee. The government advances the funds to organize these posts, while it vests the control of the cooperative enterprise in the native council of elders of the community, under the supervision of a European stock inspector.[16]

Likewise, the natives are being taught improved methods of drying and preparing skins for export. Hides and skins, which form the fourth largest export, to the value of more than fifty-three thousand pounds and ghee to the value of nearly eight thousand pounds were exported in 1925.[17] The department also periodically imports stud animals with a view to improving the quality of native stock.

4. *Native Agriculture*

The economic welfare of the native is fundamentally dependent upon agriculture. The promotion of this side of native life is directed by an agricultural department having about fifteen agricultural officers and one hundred and eighty native agricultural assistants. Native agricultural instructors are now being trained at a school at Mpapwa, which is conducted by the Department of Agriculture (in cooperation with the Education Department). These instructors tour the country, showing the natives the best methods of cultivation.

The work of this department is largely educational in nature. Through a monthly journal, *Mambo Leo,* published in Swahili,[18] and through various

[15] *Veterinary Report, cited,* p. 5. The Report says, "Never since the inception of European Administration in this Territory was so much of the country free from Rinderpest, nor formerly in any single year have such important gains been made."

[16] *Ibid.,* p. 19.

[17] *Tanganyika Trade Report,* 1925, p. 3.

[18] This journal also serves the other departments.

circulars, the department conveys to the natives information in simple terms.[19] In the sub-districts of Shingyanga, the department a few years ago established a station for plowing and the training of oxen. With this as a demonstration center, officials introduced plowing to natives throughout the area. Plows are usually so expensive that they are beyond the means of the single farmer. Consequently, to introduce this method of agriculture, the government purchased twenty-five such plows and issued them to native villages, which were originally supposed to pay for them from the proceeds of communal cotton plantations.[20] While these communal plantations did not prove to be a success, the natives, nevertheless, regularly met the payments when due. As a result of this first effort, the natives plowed about five hundred acres of land, and the local sultans requested an additional supply of three hundred and twenty plows. In 1925 a total of eighteen hundred and seventy-five acres was under cultivation. Presumably plows will be purchased in the future by native treasuries. The department has now opened four plowing schools.

The department has likewise encouraged native coffee production. In the Bukoba district, natives grew large quantities of coffee before the World War.[21] The export production of robusta coffee, largely from this district, increased from 2562 tons in 1923 to 3535 tons in 1924, and to 4150 tons in 1925 in contrast to 5880 tons of Arabic coffee exported by the European farmers of Kenya.[22] Likewise the natives produce seventy-five out of the fifteen hundred and fifty tons of Arabic or high quality coffee produced in the European districts of Arusha, Moshi, and Usambara.[23] In the Moshi district, the cultivation of Arabica coffee amidst areas occupied by European planters is carefully controlled by a district agricultural officer, under whom are a coffee officer and five trained African instructors. The government limits the number of trees each native farmer may plant to one thousand. In order to supply such trees, it has established thirteen nurseries. Under this system, the number of native planters has increased from six hundred to nearly seven thousand; and the number of trees planted increased from one hundred and seventy-eight thousand in 1922 to seven hundred and fourteen thousand in 1924 and to one

[19] Cf. Leaflet No. 1, "Instructions for Growing and Selling Cotton," part of which says, "When you are clearing the ground for your farm, put all the grass and weeds on one side so that you may bury them later on to make food for the plants that you will grow in the farm. Do not burn the grass and weeds." These Leaflets are in Swahili and in English.

[20] *Report, Department of Agriculture,* 1924, p. 5.

[21] *Lexikon,* Vol. I, p. 389.

[22] Cf. *Agricultural Census of the Colony and Protectorate of Kenya,* 1925, table on p. 44.

[23] In some cases, this native coffee brought a higher price than European grown coffee.

million two hundred and twenty-six thousand in 1925.[24] These planters have organized themselves into the Kilimanjaro Native Planters Association, to which members contribute a shilling a year. The funds of this association are controlled by the coffee officer. The association issues suggestions on how to prepare and market the crop, and hopes to work out some plans of grading and marketing coffee upon a cooperative basis.[25] In the past, the government definitely encouraged native coffee production along with European coffee production. But as a result of the combined protests of the Kenya and Tanganyika European coffee growers, and other causes, the government has withdrawn this encouragement; in fact, it now discourages this type of production.[26]

The agricultural department has likewise encouraged native production of cotton, as did the Germans before the World War. In 1924, the department distributed more than a thousand tons of cotton seed to natives. The Tanganyika cotton rules contain provisions similar to those in the Uganda rules in regard to the destruction of cotton stalks and the planting of only government seed.[27] Ginnery sites are limited.[28] In order to improve the quality and price of native cotton, the department in 1922 established an auction system in districts where production had just started. Native producers sorted their cotton into three different qualities and brought it to certain markets. On certain days, cotton buyers would bid for the right to purchase the whole crop of the district. By this means, it was believed that the native secured protection against unfair weighing, and that he would be certain to be paid in cash. In some cases, because of the competition of bidders, the natives also received a higher price than in districts where the the open market prevailed. On the other hand, some natives believed that the winner of the bid profited at the expense of the producer when market prices later increased. Traders also opposed the plan because it limited competition. With the growth of cotton cultivation, it became impossible for the agricultural officers adequately to supervise the auction system. For these various reasons, it was abandoned. In a few districts, administrative officers now hold auctions for the sale of other crops. According to the annual report of the department, the brokers' reports "show the general superiority of the native grown cotton over that raised on non-native estates; and indicate that unless considerably more care is taken to sort the latter into its different qualities and

[24] Report, 1925, p. 53.
[25] Cf. *East African Standard,* March 20, 1926, p. 37.
[26] This question is discussed in Vol. I, p. 493.
[27] Cotton Rules, 1922, *Laws of Tanganyika,* Vol. III, p. 136.
[28] The danger of monopoly under this system was discussed in an editorial in the *Tanganyika Times,* August 21, 1926.

sell it and ship it as such, the good name that Tanganyika cotton has already come to bear will be damaged."[29] The production of cotton lint increased from about 2,900,000 pounds in 1922 to 7,500,000 pounds in 1924, an increase of sixty-four per cent. While sisal is the largest export, cotton comes second, constituting 14.3 per cent of the total export. Officials believe that if they exerted the pressure hitherto applied in Uganda, the cotton production of Tanganyika would soon exceed that of Uganda.

A crop of practically the same importance as cotton is the groundnut.[30] As the cultivation of this crop is more simple and more firmly established than that of coffee or cotton, the government has not given this crop so much concern. Little attention appears to be paid to the quality of the groundnut crop. Recently the Dar-es-Salaam Chamber of Commerce made representations in regard to the adulteration of this and other products.[31] The introduction of a system of inspection such as exists in Sierra Leone or the French colonies is deserving of consideration.[32]

In many parts of Africa, the rewards of native agriculture are thrown away by improvident borrowing from European traders. Many colonies have attempted to bring this borrowing to an end by making debts of natives to non-natives nonenforcible in the courts. The League of Nations Mandate contains a provision obligating the mandatory power to prevent usury. To carry this obligation into effect, the Tanganyika Government enacted in 1923 the Credit to Natives (Restriction) Ordinance, which refused redress in the courts to any creditor unless the transaction had been previously approved by an administrative officer. Strangely enough, this ordinance has made the British Government unpopular along the coast where before the World War native traders received large advances from German trading houses. The Tanganyika ordinance does not prohibit legitimate borrowing; it is aimed merely to protect illiterate natives against unscrupulous traders.

The greatest reproach against the agricultural policy of the Tanganyika Government is the fact that it allowed the Agricultural Institute at Amani, probably the leading scientific institute in the tropics, established by the Germans in 1902, to fall into decline. The East Africa Commission reported: "In spite of the efforts of successive Secretaries of State for the Colonies, this world-famous research institution is, for all practical purposes, lying derelict, its laboratories unoccupied, its costly apparatus dismantled, the living quarters deteriorating, the magnificent and priceless collection of books and scientific records and specimens unused. Instead of supplying the five territories in particular, and the scientific world in

[29] *Agricultural Report,* 1924-25, *cited,* p. 7.
[30] The English word for peanut.
[31] *Tanganyika Times,* May 29, 1926.
[32] Cf. Vol. I, p. 871, Vol. II, p. 47.

general, with contributions to their knowledge of tropical plants, soils, and insects, of the greatest scientific and economic importance, its only output at present consists of penny packets of seeds." [33]

The institute is now being reopened, and its maintenance is being jointly borne by the East African territories.[34]

Hitherto it appears that the government Department of Agriculture has devoted more of its energies to native than to European agriculture—a policy which it has justified on the ground of greater need. The European planters, numbering about a thousand, know how to take care of themselves.[35]

At the present time, it is estimated that native exports amount to fifty-one per cent of the total exports of the territory. The exports of European settlers constitute the remaining forty-nine per cent. The leading export, sisal, is produced entirely by Europeans. If the value of sisal is removed from the total "European exports," the European agricultural production in 1925 would amount to 567,881 pounds, in comparison with native production valued at 1,293,417 pounds. At the present time, Europeans produce all the sisal and plantation rubber of the territory, thirty-seven per cent of the cotton, and thirty-three per cent of the coffee. Natives are entirely responsible for the production of hides and skins, groundnuts, beeswax, simsim, rice, and ghee, of sixty-three per cent of the cotton, and sixty-seven per cent of the coffee.[36]

Except for sisal, native agriculture for the time being dominates the Tanganyika export trade, in contrast to the pre-war condition when European exports predominated, largely because of plantation rubber, the export of which has now greatly declined.[37]

5. *Education and Missions*

In the long run, the success of the departments of public health and agriculture will depend upon the general educational progress of the people

[33] *Report of the East Africa Commission,* Cmd. 2387, p. 85.

[34] Cf. the Resolution in favor of a Central Research Staff, 1926, *Summary of Proceedings, Conference of Governors of the East African Dependencies,* 1926, p. 25.

[35] The German Government, on the contrary, appears to have aided European more than native agriculture. In 1910, the value of European agricultural products in East Africa was 7,340,000 marks, or 3,980,000 marks more than that of native products; while in the Cameroons, the value of European agricultural products was 2,880,000 marks, or 330,000 marks more than that of native products. *Lexikon,* Vol. III, p. 60.

[36] Paper by the Agricultural Director of Tanganyika at the Pan-African Conference on Agriculture, *East African Standard,* August 28, 1926.

[37] Rubber exports are now, however, starting to revive. Nearly fifty thousand tons of Cerea rubber were exported in 1925.

—a fact which the Germans realized. In German East Africa, the government maintained eighty-nine schools, having a total attendance of sixty-one hundred students [38] and a staff of thirteen German teachers. The Estimates also provided for an inspector of schools. Christian missionary societies, led by the Berliner Missions-Gesellschaft and the Leipziger Missions-Gesellschaft among the Protestants, and the White Fathers and Benedictines among the Catholics, maintained a total of eighteen hundred schools having an enrollment of 108,500.

The value of the German system was estimated by the British Government in its report for 1921 as follows: "The results of their system are to-day evident in the large number of natives scattered throughout the country who are able to read and write, and it must be admitted that the degree of usefulness to the administration of the natives of the Tanganyika Territory is in advance of that which one has been accustomed to associate with British African Protectorates. Whereas the British official may often have had to risk the mutilation of his instructions to a chief by having to send them verbally, the late German system has made it possible to communicate in writing with every Akida and village headman, and in turn to receive from him reports written in Swahili." [39]

Immediately following the World War, the financial difficulties which the Tanganyika Government encountered along with other African territories restricted expenditures on educational matters to a bare minimum. In 1920-21, educational appropriations amounted only to 3106 pounds. Educational progress in the beginning was also slow because of the refusal of the first Governor, Sir Horace Byatt, to cooperate with mission schools through the usual system of grants-in-aid. Between 1920 and 1925, the administration directed its attention merely to the establishment of government schools. Missionary education was also impaired by the compulsory withdrawal of the German missionaries during the War which created a gap that was only partially filled by Allied societies. The number of missionaries declined from about five hundred and ninety in 1914 to about one hundred and fifty in 1924.

Following the establishment of the Imperial Committee on Education, and the arrival of a new Governor, Sir Donald Cameron, the educational policy of the government was changed in favor of complete cooperation with missionary enterprises. In October, 1925, an important conference

[38] Table IV, *Die deutschen Schutzgebiete,* p. 63. The government also maintained schools for European children at Dar-es-Salaam and two other places, attended by seventy-seven children in all.

[39] *Report,* 1921, p. 41. While it thus appears that the language of instruction was Swahili, the Germans in the budget of 1913 appropriated twenty thousand marks for the extension of the German language in the territory.

between government and missions was held at Dar-es-Salaam.[40] The conference decided that Swahili should be used as the medium of instruction in the elementary native schools in place of the local vernacular. It was believed that Swahili was an African language so widely used—it is estimated that nearly twenty million natives throughout East Africa can understand this language—that the educational system should promote its development.[41] The conference also recommended that educational committees having government and missionary representatives and a system of grants-in-aid be established. Following the conference, the government proceeded to organize a Central Advisory Committee on Education composed of representatives of government departments more particularly concerned with the training of Africans, six missionaries, two representatives of the commercial and planting interests, and two Africans. This central committee is assisted by provincial committees having a similar composition. It is hoped that each mission will appoint a specially qualified educator on its staff to take charge of its educational work. The government will contribute three hundred pounds a year toward the salary of each such educator.

Missions so far have been paying native teachers in some cases as low as six shillings a month, a salary which does not attract the best type of native.[42] Government grants-in-aid will make the increase of these salaries possible. The government plans to appoint a European official, connected with each central or secondary school, who shall devote most of his time to the inspection of mission schools.

In addition to assisting missionary education, the government has established six secondary schools. These schools are in charge of Euro-

[40] It was attended by seventeen government representatives, eighteen missionaries representing eight Catholic and ten Protestant societies, and fifteen other Europeans. In his opening address, the Governor said: "Contrary to the usual British Colonial policy, the Administration was unwilling to enlist the help of the great Missionary Societies in the task of educating the children of the Territory. The policy of the government in that respect has been revised. We want your full assistance and cooperation." *Report of Proceedings, Conference between Government and Missions,* 1925, p. 3.

[41] "Among the indigenous population of East and Central Africa, there are very likely 155 tribes in which it [Swahili] is used, or largely understood. It will be generally agreed that if these many variations can be standardised, and a uniform dialect produced, a great advance will be made in the evangelization, education, and even administration of these peoples numbering from 17 to 20 millions, with at the present time one hundred to a hundred and twenty-five indigenous languages or dialects." W. J. W. Roome, *ibid.,* p. 170.

There are twenty different dialects in Swahili, and the Bible or parts of the Bible have been translated into six different Swahili dialects. Much of the time of the Dar-es-Salaam Conference was spent in preparing the way for the standardization of these different dialects so as to produce eventually a unified language.

A strong minority of the missionaries believed, however, that the local vernacular should be used. *Ibid.,* p. 22.

[42] *Annual Report of the Education Department,* 1925, p. 13.

peans and instruction is given in English. They are fed by government and mission village schools which take students through the lower standards.

Following the example of other British territories, the government is adapting the program of instruction to native needs. Likewise, it is encouraging the spirit of African "nationality" in the students, and increasing a respect for what is worth while in African institutions. The report of the Department of Education says:

"The very obvious happiness of the children in their schools, while primarily attributable to the influence of the members of the European Staff, is also very largely due to the British policy of indirect rule, a delegated authority which is growing with surprisingly encouraging results actually in the schools themselves. There can be no doubt that African psychology is adapted to control by Tribal Chiefs and loyalty to this authority is still very strong in the more unsophisticated tribes, and though weakened by the process of detribalisation which has for long been going on in the more developed districts is still inherent in every true African. The intense attachment still of some of the people to their Chief would undoubtedly cause surprise to those who have not had experience of Africa. . . . Looked at . . . from the ethical point of view, there is something very fine in this tribal loyalty and it is by appeal to this natural instinct of the African that we hope not only to perfect a system of school discipline appreciable by the African while possessing the spirit of the British Public School, but also one which will be the training ground for the greater work which is to be accomplished in the British ideal of re-creating the authority over the people by their natural Chiefs and leaders, but with order replacing chaos and an enlightened administration of justice substituted for superstition, bribery, and witchcraft.

"The School 'Baraza' or Bench of Chiefs, otherwise prefects or monitors,[43] will be one of the strongest influences in the development of that sense of justice which alone can make possible the full realization of the British ideal to delegate authority to those who by heredity ought to possess it and exercise it. . . . It is but natural that these school courts still need supervision which they always get, but it is interesting in listening to their work to notice that communal offenses are dealt with very much more severely than they would be by members of the European Staff, and I think that it will be generally admitted, by those best fitted to know, that it is this communal sense of the African that must be fostered and encouraged on the right lines, if we are to succeed in establishing for the Negro Races of Africa their place in the civilized peoples of the world."[44]

Such is the spirit which animates the educational policy and in fact the other activities of the Tanganyika Government.

[43] A tribal system of student self-government.
[44] *Annual Report of the Education Department,* 1925, p. 8.

A start has also been made, with the same goal in view, in technical education. In addition to the industrial work given by the educational department, different branches of the administration train native personnel to perform work hitherto done by Europeans or Asiatics. About twenty natives are sub-postmasters in complete charge of smaller stations throughout the territory; they handle their own accounts under the control of the local political officer. The Department of Posts and Telegraphs conducts a telegraph school where native telegraphers are being successfully trained. Less progress has been made with native telephone operators, largely because of their difficulties with spoken English. As a result of this type of education, the Posts and Telegraphs Department reduced its European staff from ninety-six in 1920 to sixty-nine in 1925, and its Asiatic clerical staff from fifty to forty-two, in favor of natives.[45] The Tanganyika Railway maintains an extremely interesting apprentice school at the railway shops at Tabora, where natives are being trained to become fitters and mechanics. A native is responsible for the operation of the electric light plant which supplies the city of Tabora.

The school population and attendance is shown in the following table:

SCHOOL ATTENDANCE

Children of school age (one-fifth of population)	800,000
Average attendance at Government Schools	4,436
Average attendance at Mission Schools (approximate)	93,000
Total average attendance at Government and Mission Schools	97,436
Total percentage of children of school age in ave age attendance at Government and Mission Schools	12.15 [1]

[1] The number of students on the rolls of the schools is larger than the average attendance. Thus the number of children on the rolls of Government Schools in 1925 was 5745, or .72 per cent of the children of school age, and the approximate number of children on the rolls of Mission Schools was 155,100, or 19.4 per cent of the children of school age. The total number of children on the rolls of both Government and Mission Schools was, therefore, 160,846. *Annual Report of the Education Department,* 1925, p. 67.

While the number of government schools is now seven less than in the German days, the number in attendance in government schools is about the same as in 1914.[46]

In order to carry on these various educational activities, the Tanganyika Estimates for 1926-27 provide for twenty-nine European headmasters and assistant masters, nine European industrial instructors, thirty-five African

[45] See statement, *Report of Proceedings, Conference between Government and Missions,* p. 67.

[46] The total number in government secondary and elementary schools in 1914 was 6100; at the present time, the number enrolled is 5745, excluding, of course, Ruanda-Urundi.

industrial instructors, and two hundred African teachers. This layout is remarkable considering the fact that in 1922 there were only four Europeans on the staff. Despite the increased provisions in the Estimates, the educational department has not been able to recruit the men for which these provisions call. Thus the goodwill of the government is obstructed by a shortage of personnel in both educational and medical work—a shortage which is apparently due to the greater comfort of living at home than in Africa. In this respect, the missionary societies, able to appeal to a religious motive, have an advantage. But they too are now experiencing difficulty in filling their educational posts.

Curiously enough, increased wealth has hindered educational progress in some parts of the territory as the following quotation from the annual report of a headmaster of the Bukoba School, located in a rich coffee district, shows:

"After the experience of six months in the district, I am of opinion that the people cannot be said to have a really urgent desire for education, and that if they felt themselves at liberty to follow their own inclinations, many would at once withdraw their children from the schools. The main reasons for this indifference and even hostility to education are that the Wahaya are really an ignorant and backward people, although they have acquired a veneer of civilization in outward matters, such as dress. The cause of this is to be found in the very high prices which they have been receiving for their coffee during the past three years (a crop which entails, I suppose, less labour and attention on the part of the grower than any other) and in this particular district nearly all the labour required is done by the women. They have in consequence found themselves able to purchase such outward signs of civilization as European clothes, bicycles, and so on, while their inward development has advanced very little beyond what it was several years ago before coffee-growing was encouraged. Their only idea, therefore, is to continue to make money by extending their coffee plantations, and [sic] consider it a waste of time for their children to go to school when they might be engaged in the far more profitable occupation of coffee-growing thereby incidentally giving the head of the family more leisure for his beer drinking and other social pursuits." [47]

This condition may only be remedied by a further application of the right kind of educational ideals.

The progress of the government in the last four years in promoting native welfare is shown in the following tables. The second table shows that more than twenty-four per cent of the ordinary expenditures of the Tanganyika government go to the definite improvement of native life.

[47] *Annual Report of the Education Department*, 1925, p. 45.

Tanganyika Expenditure on Native Welfare from 1923-24 to 1926-27

Year	Medical Work	Education	Agriculture	Game Preservation	Veterinary
	£	£	£	£	£
1923-24	91,340	11,024	21,869	7,461	30,434
1924-25	106,126	15,724	27,107	10,390	33,326
1925-26	147,703	28,491	30,273	21,375	39,055
1926-27	190,616	58,897	42,239	40,840	45,851 [1]

[1] These figures are cited by the Governor in his address to the Tanganyika Legislative Council; *Tanganyika Times,* December 11, 1926, p. 12B.

This proportion is higher than the proportion expended on native welfare in either Kenya or Uganda.[48]

Tanganyika Expenditures on Native Welfare, 1926-27 [1]

	Expenditures	Percentage of Total Expenditures [2]	Expenditure per 100 persons
	£	%	£
Education	66,347	3.76	1.609
Agriculture, Veterinary, and Forestry			
Agriculture	42,619	2.41	3.595
Veterinary	47,301	2.68	
Forestry	17,670	1.00	
Game Preservation	40,496	2.29	
Total	148,086	8.38	
Medical and Sanitary work	191,451	11.83	4.680
Special	1,615	.09	
Total	193,066	11.92	
TOTAL	407,499 [2]	24.06	9.884

[1] "Total Expenditures" do not include ordinary and extraordinary expenditures on railways, which were £543,371 and £1,224,208 respectively. The total expenditures, excluding these two items, were £1,767,579.

[2] These figures do not quite agree with those for 1926-1927 in the preceding table. It appears that this difference is due to the fact that in this second table, we have been obliged to use the Draft instead of the Final Estimate figures. Cf. Draft Estimates for 1926-1927, p. 5.

6. *Missionary Spheres of Influence*

It was the policy of the German Government to define spheres of influence between Catholics and Protestant missionary bodies. Even this policy

[48] Cf. Vol. I, p. 384.

did not altogether eliminate conflicts as disputes arose over the limit of their respective spheres.[49] During the War, these spheres lapsed and Catholic organizations took up work in what were previously Protestant spheres. At the suggestion of the British authorities, it appears that following the War, the Protestant societies agreed to the re-establishment of spheres, but that the Catholics declined, taking the view that the whole world should be their parish. In discussing this question, the annual report on Tanganyika to the Mandates Commission for 1922 stated that "the principle of spheres of influence is ultimately to the clear advantage of Christianity as a whole, no less than to that of pagan populations." [50]

While the report recognized that spheres of influence could be imposed only when necessary for the maintenance of order, it believed it was wiser for the government "to exercise a moderate and reasonable control at the outset rather than to wait until confusion and dissension render the ultimate imposition of the principle of spheres unavoidable."

This proposal attracted the attention of the Mandates Commission which after a discussion, adopted a long resolution, part of which declared: "Any regulations . . . arising out of the necessity for the maintenance of order will, if such order be genuinely endangered, be free from criticism, even should such regulations have the effect of restricting, in some measure, the free exercise of religion." According to the report of the Mandates Commission, "On the other hand, any regulations on this subject which were to go beyond what is required for the maintenance of order, any measure of a vexatious nature or such as might have the effect of restricting the activities of the missions of any particular religious denomination, would be contrary to the terms of the mandate." [51]

Since the Tanganyika report had intimated that the maintenance of order was not "genuinely endangered," the local administration at once dropped the idea of establishing spheres of influence. A number of people in Tanganyika believed that this interpretation was due to the fact that Catholic members dominated the commission.

Mission work in Tanganyika is difficult because of the strength of Mohammedanism, which is a heritage from the Arab days. But Islam so far has confined itself largely to the coastal strip and to such towns as Tabora, which were originally founded by the Arabs as slave entrepôts. Before the World War, it was estimated that there were about three hundred thousand Mohammedans in the territory. The German report for 1913 declared, however, that the Moslems were making progress only

[49] *Die deutschen Schutzgebiete,* p. 19.
[50] Paragraph 25, *Report,* 1922.
[51] *Report on the Work of the Third Session of the Commission,* A. 46, 1923, VI, p. 311.

in the coast districts.[52] To prevent the spread of the religion, the German Government encouraged the natives to breed pigs. Officials and missionaries have from time to time opposed the teaching of Swahili on the ground that its use would facilitate the propaganda of Mohammedanism. But apparently the weight of opinion is against this theory.[53]

With the exception of the work of the Central Universities Mission, the activity of mission societies in Tanganyika is not as impressive as elsewhere in East Africa. In 1925, the government authorized the return of the German missionaries, and the Allied Protestant societies which temporarily took over their work have now withdrawn. The return of the Germans may bring new vigor to this field. It is strange to find that there is no strong American mission body in the territory. The establishment in Tanganyika of a work such as the American Presbyterians are performing in the Cameroons would be a worth while American contribution to the mandate principle.

[52] *Die deutschen Schutzgebiete,* p. 19.
[53] Cf. the remarks of Mr. W. J. W. Roume of the British and Foreign Bible Society, *Report of the Proceedings, Conference between Government and Missions,* p. 21.

CHAPTER 29

WHITE SETTLEMENT IN TANGANYIKA

TANGANYIKA, like Kenya, has its Lowlands and its Highlands. Behind a coastal plain, having a width of from ten to forty miles, a plateau gradually rises until it covers the greater part of the territory. The altitude of this plateau ranges from four thousand to eight thousand feet, and rises to even greater heights in mountainous areas. Tanganyika's climate varies according to this altitude. The coastal strip, having a yearly average temperature of seventy-eight degrees, is warm and damp. The interior has a drier climate with great daily variations in temperature. It is only in regions having an elevation of more than five thousand feet that a semi-temperate climate may be said to exist. These regions are found on the slopes of Kilimanjaro and Meru, in the Usambura Highlands, and on the Ufipa Plateau in the mountain areas of southwestern Tanganyika, located in the Iringa and Rungwe districts. The last annual report of the government says that these districts "enjoy a bracing climate and alone can be considered healthy for Europeans," but that "prolonged residence in these altitudes is apt to produce nervous strain even though physical fitness is maintained." [1]

Certain areas of Tanganyika are therefore suitable for white settlement—areas the actual extent of which are as yet unknown. It seems probable, however, that Tanganyika can support a settler population as large as, if not larger than, Kenya. The next few years will determine whether the Tanganyika Government will control the alienation of land and the recruiting of labor in these areas any more effectively, from the standpoint of the native, than has the Government of South Africa or of Kenya.

1. *German Plantation Policy*

The German Government, originally at least, encouraged white settlement and alienated more than half a million hectares of land, most of which was placed under rubber, sisal, coffee, and cotton cultivation. In 1913, sisal and rubber were the leading exports. Practically all of the land alienated by the German Government was, owing to the transport situation, confined to the northeast Highlands. About twenty per cent

[1] *Report*, 1925, p. 74.

of the land alienated was actually under cultivation.[2] The great majority of settlers operating these estates were Germans. The total number of settlers was eight hundred and eighty-two.

These land alienations of the German Government were controlled by an imperial decree of 1895 which declared that all land in East Africa was Crown land (*Herrenloses Kronland*), subject to the rights of private and juristic persons or of chiefs and native communities.[3] In taking possession of Crown land in the vicinity of native communities, areas should be reserved which would secure to the natives land enough for cultivation, taking into consideration future population increases. The determination of these reserves was placed in the hands of a *Landkommission* appointed by the governor, which included among its members the akida and jumbe of the land concerned.[4] The *Landkommission* was, under a local ordinance, obliged to reserve for the natives four times the amount of suitable land under cultivation. It was, however, authorized to offer the natives a certain sum for withdrawing from their land.[5]

Under these provisions, land commissions marked out one and seventy-five reserves, totalling seven hundred and fifty-six square miles in the northeast Highlands. The remainder of the land in this vicinity the government alienated to German settlers, either under freehold or lease, title to which was registered in the German *Grundbuch*. Despite the establishment of these reserves upon the four-times-the-cultivated-area principle, it appears that the native population in the vicinity of Mount Kilamanjaro was deprived of land necessary for its existence. Following the World War, the British Government acquired ex-enemy plantations in this area to the extent of about fifty square miles, which it deliberately turned back to the natives to relieve this shortage. It also announced that no further alienations to Europeans in the area would be made.[6]

2. *The Tanganyika Land Ordinance*

Immediately following the Armistice the Tanganyika Government restricted land alienation, pending the enactment of land legislation and the development of communications. The first step in overcoming these obstacles was the enactment of a Land Ordinance in 1923, which was mod-

[2] *Die deutschen Schutzgebiete*, p. 82, Part II. In Kenya to-day the percentage is only nine per cent.

[3] Imperial Decree of November 26, 1895, *Landes-Gezetzgebung*, p. 212. By an amendment of 1902, it was declared that the property (*Eigentum*) belonged, not to the Reich but to the treasury of the territory (*Schutzgebietsfiskus*), p. 225.

[4] Ordinance of April 29, 1900, *Landes-Gesetzgebung*, p. 219.

[5] Ordinance of December 4, 1896, *ibid.*, p. 218.

[6] *Gazette, cited*, 1923, p. 198.

elled after the ordinance controlling land tenure in northern Nigeria. The preamble of this ordinance declared:

"Whereas it is expedient that the existing customary rights of the lands of the Tanganyika Territory to use and enjoy the land of the Territory and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves, their families and their posterity should be assured, protected and preserved;

"And whereas, it is expedient that the existing customs with regard to the use and occupation of land should as far as possible be preserved;

"And whereas it is expedient that the right and obligation of the Government in regard to the whole of the land within the Territory and also the rights and obligations of cultivators or other persons claiming to have an interest in such lands shall be defined by law. . . ."

The text declared: . . . "The whole of the lands of the Territory, whether occupied or unoccupied . . . are hereby declared to be public land . . .[7] under the control and subject to the disposition of the Governor, and shall be held and administered for the use and common benefit, direct or indirect, of the natives of the Territory, and no title to the occupation of and use of any such lands, shall be valid without the consent of the Governor."

In the exercise of these powers the Governor "shall have regard to the native laws and customs existing in the district" concerned. Limited only by this provision, the Governor may grant leases or, as they are called here, "titles of occupancy," for not more than ninety-nine years, subject to a rental which may be revised at intervals of thirty-three years, and for areas not exceeding five thousand acres except with the approval of the Secretary of State. While such titles may be granted to natives, they are not obliged to take out certificates of occupancy nor to pay rent.

Likewise the government has enacted legislation, in pursuance of the mandate, controlling transfers of property from a native to a non-native.[8]

In placing all land at the disposal of the government, the Tanganyika Administration is adhering, in a somewhat different form, to the Crown

[7] This presumably excludes land held under title from the German Government, although the Ordinance is not explicit on the subject.

[8] The Law of Property and Conveyancing of 1923, *Laws,* Vol. IV, p. 5, sec. 11 (1), provides that a disposition of and belonging to a native in favor of a non-native or conferring on a non-native any rights over the land of a native, shall not be operative unless it is in writing and unless and until it is approved by the governor. The Land Ordinance of 1923 applies this rule to rights of occupancy. "Disposition" includes mortgages, leases and sub-leases. In approving a mortgage to a non-native, the Governor may declare that his approval shall not be required to the foreclosure of the mortgage or to a sale to a non-native upon the foreclosure of a mortgage. A final decree for foreclosure in favor of a non-native requires, in the absence of the above declaration, the approval of the Governor before it may become operative.

land policy followed throughout East Africa and supported by the Rhodesian decision of the Privy Council in 1918.[9]

But under the mandate, the Tanganyika Government is obliged to carry out this article: "In the framing of laws relating to the holding or transfer of land, the Mandatory shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population." [10]

Now the Crown land policy which ignores the difference between native and public land in itself does not conform to these provisions. Hence the Tanganyika Government was obliged to resort to another formula which it found in the northern Nigerian system. It may be assumed that the Tanganyika Government is as thoroughly devoted to native interests as the Nigerian Government. Nevertheless, there is a vital difference between the two territories which the Tanganyika land ordinance overlooks. Under both ordinances, the Governor has virtually complete freedom in granting leases of land to Europeans. But the demand for such leases on account of differences in climate is much greater in Tanganyika than in Nigeria, and the Governor of Tanganyika will be, therefore, subject to pressure for the alienation of land which does not exist in Nigeria. I Tanganyika, the power of the Governor in regard to alienations is subject only to the restrictions that he will have regard to the native laws and customs as in the districts concerned.[11] The Tanganyika ordinance lays down no method by which the nature of these customs are to be ascertained. When a European wishes to acquire land in Tanganyika, the Governor instructs the administrative official in the district concerned to report as to the effect such an alienation would have upon native interests and rights. The sole responsibility is vested by the law in the Governor, and if his administrative official is ignorant of native law the Governor may alienate native land, and the native occupier has no redress. The law, moreover, merely says that the Governor shall have "regard for native customs." From the standpoint of the natives, the Tanganyika land law therefore contains fewer precise guarantees than did the German land law which provided for the establishment of reserves four times as large as the land under cultivation. Provisions similar to those contained in the German ordinance were inserted in the Kenya land legislation of 1897 and 1902, but they were not respected because of the pressure of settlers; neither were the precise provisions in the German land law for

[9] Cf. Vol. I, p. 209. [10] Article 6. Mandate approved July 20, 1922.

[11] Unlike the Nigerian Ordinance, the Tanganyika Ordinance does not oblige the Governor to take account of the needs of the native population. In practice, however, it appears that the Tanganyika Administration does not consider the needs as well as the customs of the natives.

East Africa always respected. In 1921, Sir Horace Byatt, Governor of Tanganyika, as well as leading Indian residents expressed the opinion that no land was available in the territory for the settlement of Indian agriculturists without infringing upon native land rights.[12] In 1926 the new Governor, Sir Donald Cameron, expressing an opposite opinion, said that such vacant land actually existed which was suitable for European settlement. Inasmuch as Sir Donald Cameron is the first Governor actually to investigate the interior of the territory, his opinion on the matter is undoubtedly correct. But another Governor may be more ignorant or more careless of native interests. Nevertheless, under the existing land law, he has complete power; the rights of the native are subject to no judicial guarantee.

The Tanganyika Land Ordinance, as it stands at present, accepts the principle of protecting native rights in the land, as prescribed in the Mandate, but it does not establish a procedure which will insure that the principle will be applied. If it is impracticable to install the system of land tenure which prevails on the Gold Coast or in southern Nigeria, the Tanganyika Government might profitably follow the idea suggested by the Nyasaland Land Commission (which is being worked out in Uganda),[13] of delimiting certain areas of the land as European reserves to which future alienations should be restricted.[14]

3. *The Fight over White Settlement*

The policy of the Tanganyika Government, unlike the policy of Kenya, is controlled by Article 22 of the Treaty of Versailles, which says that "to those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization . . ." and by the Tanganyika Mandate (Article 3) which also says that the mandatory "shall undertake to promote to the utmost the material and moral well-being and the social progress of its inhabitants." In other words, the policy of the mandatory government should not primarily be directed to the economic development of the territory for the benefit of Europeans, but to the development of the native population. In the Bondelzwarts affair, the chairman of the Mandates Commission said that the trusteeship principle

[12] Cmd. 1312, *cited*, p. 2. [13] Cf. Vol. I, pp. 251, 601.
[14] The relation of these alienations to the labor supply is discussed in Vol. I, p. 507.

"involves the adoption of an attitude toward the various interests and administrative practices very different from the former [attitude]." He continued: "First in importance come the interests of the natives; secondly, the interests of the whites. The interests of the whites should only be considered in relation to the direct or indirect exercise of protection over the natives." [15]

The majority of the Mandates Commission [16] declared in the same affair that even the educated classes in Southwest Africa regarded the natives "as existing chiefly for the purpose of labor for whites" and that formerly the policy followed "was primarily designed to develop the country in the interests of the European colonists only." But, the Commission declared, "Southwest Africa is now a mandated territory." [17]

It appears from these statements that the Tanganyika Government is obliged to promote "to the utmost" the welfare of its inhabitants, which presumably mean the natives. Between 1920 and 1925, the Tanganyika Government apparently interpreted this to mean that Tanganyika should be a native state. When home on leave, the Governor of Tanganyika, Sir Horace Byatt, was reported to have declared that the "future of the country lay in developing native cultivation only." [18] The same sentiment was expressed by a Conference of Administrative Officers, held in Dar-es-Salaam in 1924, which unanimously passed a resolution as follows: "That this conference is unable to reconcile the policies of non-native and native development since expansion in the latter direction must gravely reduce the labor supply for non-native estates as it has in Uganda. In view hereof this Conference entertains doubts as to the advisability of alienating more land for non-native development. It is furthermore the opinion of this Conference that in fairness to non-natives they should not be left in doubt as to the policy of the Government in this respect, and that a frank declaration and warning are desirable." Approval of this policy in respect to Kenya also came from members of the House of Commons, notably Mr. Ormsby-Gore [19] who said Kenya Colony "should be regarded primarily as an African country," and that "we should be there for the Africans just as we are in Nigeria. . . ." He further stated: "I personally regret the history of that Colony and would like to have seen the development of Kenya

[15] "Report on the Bondelzwarts Rebellion," *Annexes to the Minutes of the Third Session, Permanent Mandates Commission,* p. 296.

[16] The Chairman would presumably have been included in the number approving the resolution, but he was obliged to be absent from the meeting on account of illness.

[17] *Ibid.,* p. 293.

[18] *Dar-es-Salaam Times,* June 3, 1922.

[19] At this time he was not Under-Secretary for the Colonies.

and of East Africa proceeding on precisely the same lines as the development of the Gold Coast and Nigeria. . . ." [20]

Administrative regulations made it difficult for European employers in Tanganyika to secure recruited labor. Contracts were limited to a period of six months, which included the time required for going to and coming home from work. Some district commissioners also prohibited recruiting in their areas during the planting season. Administrative officers were accused of urging natives to stay at home rather than go out to work for farmers.[21] The agricultural department promoted native agriculture when it came into conflict with European production; this was especially true in the case of native coffee cultivation in the Arusha area, a territory inhabited by European farmers.

This policy, however, met the opposition of the European settlers in Tanganyika represented by the local press and supported by the white settlement school in Kenya. The *Dar-es-Salaam Times* which later became the *Tanganyika Times* declared that the idea of making Tanganyika a black man's country was the "outcome of a fanatical negro-philism, without rhyme or reason." Development of Tanganyika "by means of white settlement of the land" was the only remedy to the financial depression.[22] In a later issue it declared "you will always find that the majority are happier when working for an employer who will look after them, see that their bellies are well-filled, and that they have some money regularly at the end of the month with which to purchase their little luxuries." Again, "How could the welfare of the Natives be better advanced than by encouraging European capital and industry here?" [23]

More recently, it declared that the questionnaires sent out by the Mandates Commission were a "farce." Italy would not answer any such questionnaires in regard to territories taken by her from Austria. "Why, then, should not Great Britain have the moral courage to say that what we have we will hold." [24]

In fact this organ, doubtless fearing that the Mandates Commission might interfere with European colonization, was opposed to the mandates system altogether. It would be "much more honest if the Allied Powers were to drop the mandate pretence and the other pretence that Germany's

[20] *H. C. Deb.*, July 4, 1922, Vol. 156, col. 254.
[21] Cf. *Dar-es-Salaam Times*, July 11, 1925.
[22] *Ibid.*, editorial, "A Policy to Avoid," June 31, 1920; "A Black Man's Country," April 30, 1921. On January 27, 1923, it declared that Mr. Ormsby-Gore, who had become Under-Secretary for the Colonies, was an "ultra-negrophile, to such an extent that he becomes anti-European." This was before Mr. Ormsby-Gore's visit to East Africa.
[23] Editorials, *ibid.*, December 1, 1923 and March 24, 1923.
[24] *Tanganyika Times*, September 11, 1926.

Colonies were taken from her because *she lost*. Why not, then, tell her so in plain language and drop *pretence and hypocrisy?* It would be far better and would put an end to the matter, at least until Germany felt she was fit enough to attempt to re-take them. By no other method will they ever return to her." [25]

In commenting on the return of the Governor to England, the *Times* said: "If His Excellency can exert his influence to have the status of Mandate which applies to this Territory altered to that of Crown Colony, he will have done the country an invaluable service." [26]

4. *Protests Against Native Coffee*

Equally vigorous protests against the government policy of native coffee-growing came from the settlers in the Kilimanjaro region, who urged that native coffee-growers would not care properly for their plants which would consequently infect European estates. Moreover, they believed that natives would steal European coffee. They urged the adoption of the policy followed in Kenya: the prohibition of native coffee-growing in European areas.[27] Believing that their interests would be better served if they belonged to Kenya colony, a group of farmers in the district passed a resolution in 1923 asking that Kilimanjaro be transferred from Tanganyika to Kenya. The Convention of Associations of Kenya responded to this sentiment by a resolution which noted "with great satisfaction that the residents of the Arusha and Moshi Districts of Tanganyika propose that the area concerned should be brought under Kenya," a proposal which had its "wholehearted support, particularly in view of the fact that it would (a) provide compensation to the Colony for the loss of Jubaland,[28] (b) restore the homogeneity of the Masai and Kissi tribes, (c) result in the more economic layout of rail development; and (d) bring the settlers in the Highland areas of Tanganyika under an administration calculated to encourage their material development." It appears that sentiment in Kenya favored the annexation of this area in the hope of securing an increased labor supply. Recruiting in Tanganyika for outside territories is prohibited except on special license which is not generally given. This "demand" for annexation to Kenya on the part of the Moshi-Arusha settlers later turned out to have originated with agents of Lord Delamere living in the area. It does not appear that there is any real sentiment [29] in favor of

[25] *Ibid.*, September 11, 1926.
[26] *Ibid.*, editorial, "Sir Donald Cameron," April 9, 1927, p. 9.
[27] Cf. Vol. I, p. 271. [28] Cf. Vol. I, p. 393.
[29] Cf. *Report of the East Africa Commission,* p. 123. The Commission says "the natives were strongly opposed" to annexation.

this change which, if carried out, would require the consent of the Council of the League of Nations.[30]

In their opposition to native coffee-growing, the special committee of the Kilimanjaro Planters' Association appealed to the Kenya Coffee Planters' Union, saying that the Tanganyika Government was "pushing native coffee to such an extent that everything else, at least in the Moshi district, is taking second place, particularly European industry, as far as the Government is concerned." In reply, the Council of the Kenya Union passed a resolution supporting the views of the Tanganyika Association in which it declared that "there is a direct danger to the coffee industry in Kenya from the present policy of the Tanganyika Government in regard to the coffee industry." [31]

Apparently as a result of this campaign, the Tanganyika Government modified its policy. Its last report to the League Council says: "The active encouragement of this cultivation by District Officers ceased some time ago and it is considered now that it is advisable to discourage rather than to encourage the extension of coffee cultivation by natives at Moshi and Arusha. The crop is a precarious one and at present the native is too much dependent on it. Moreover it will be necessary to introduce regulations to prevent the introduction of disease into those coffee areas, and it is very doubtful whether the native will himself be able to carry them out." [32]

It is probable that this policy does not meet the approval of some Tanganyika agricultural officers who point out that in the past, native-grown coffee has produced higher prices than European-grown coffee in these two areas. The above statement does not mention the presence of European coffee-growers who wish to secure the labor of natives who now grow coffee, and who have been agitating for this change in policy.[33]

5. *Settlement in the Southern Highlands*

Apparently as the result of the campaign for white settlement in Tanganyika, supported, if indeed it has not been engineered by the Kenya colonists, the new Governor, Sir Donald Cameron, altered the policy of

[30] Cf. Vol. I, p. 430. [31] *East African Standard,* December 12, 1925, p. 4.
[32] *Report,* 1925, p. 53.
[33] At a meeting with the Arusha planters, the Governor, Sir Donald Cameron, said that he desired to "discourage natives from growing coffee" but that the native had a perfect right to grow coffee if he wished to do so, and if he so decided he, [the Governor] thought that the native should be assisted by advice to grow it in the best way possible so as not to be a menace to his neighbor. "I have no right to forbid any native from growing coffee in the same way as I have not the right to stop you from growing coffee." He would consider, however, the question of segregating the native coffee area. *Tanganyika Times,* September 18, 1926, p. 7.

his "pro-native" predecessor to the extent of supporting the policy of white settlement in the southern part of Tanganyika and elsewhere. In 1924, the government alienated in the Morogoro, Rungwe, Dodoma, Arusha, and Tabora districts a total of nearly seventeen thousand acres.[34]

By the end of 1925, the total amount of land alienated by the Tanganyika Government amounted to nearly 1,800,000 acres, compared with 7,680,000 acres alienated by the Government of Kenya. The present European population of Tanganyika is about four thousand, compared with 12,500 in Kenya. If the Tanganyika Government proceeds with a program of land alienation, its settler population will probably reach that of Kenya in the course of a few years.

Following the Conference of East African Governors, Sir Donald Cameron made a speech in Dar-es-Salaam supporting the principle of white settlement on land "useless to the native" and within the reach of transport facilities. This speech was followed a few months later by a notice in the *Gazette* that about forty thousand acres of land would be offered for sale in the Iringa district. In his address at the first session of the Tanganyika Legislative Council, the Governor stated that "non-native settlement should be encouraged wherever the climate is suitable and adequate areas are available without depriving the native population of sufficient land for its own use, provided always that transport facilities are available to evacuate the produce."[35] The two restrictions imposed by the government upon land alienation for white settlement are: (1) that the land alienated shall not encroach upon land occupied or needed by natives; (2) that land shall be alienated only in those areas from which products can be evacuated, i.e., where transport facilities exist. This latter restriction together with the restrictions imposed by the Tanganyika Land Ordinance will tend to prevent the acquisition of land merely for speculative purposes. But while the administration has taken steps to protect the interests of the territory against speculation and the interests of the native in the land, it has taken no steps to protect native society against the labor drain which the unrestricted alienation of land will impose. Adopting an attitude of *laissez faire,* the government considers it a matter of indifference whether a native travels five hundred miles to work for a European or whether he works at home.

The areas where the government intends to alienate land are located in the districts of Iringa and Rungwe. The population density of the Iringa district is 1.3 per square mile; while that of Rungwe is 6.5, figures which include women and children.[36] These districts are thus evidently sparsely

[34] *Report,* 1924, p. 53.
[35] *Tanganyika Times,* December 11, 1926, p. 18.
[36] *Report,* 1920, p. 38.

populated; and, according to the administration, vast areas are uninhabited altogether. Under these circumstances, the Tanganyika Administration believes that the alienation of such areas to white settlers would not injure the rights nor the interests of the native population of the country. As we have seen, the machinery for determining whether or not proposed alienations injure native rights has not so far been established. Even if one assumes that the government will alienate no land the ownership or use of which is claimed or needed by a native, it would not necessarily follow that such alienations would conform to the trusteeship principle, for reasons connected with the question of labor, which will now be discussed.

6. *Native Labor*

Under the German régime, the settlers in the Kilimanjaro area and elsewhere relied exclusively upon natives for their labor supply. Plantation labor increased from about eighty thousand in 1912 to nearly ninety-two thousand in 1913.[37] The total number of natives under some form of employment for 1913 was about 172,100.[38] Wages for this labor varied from between 3 to 4½ rupees a month in the remote district of Bismarckburg to between 12 and 15 rupees in Morogoro. Wages on the Tanganyika Railway were from eight to thirteen rupees. It does not appear that wages have increased since the World War.

Considering the available male population of Tanganyika as nine hundred thousand,[39] somewhat less than a fifth of the men were under European employment in 1913, in comparison with nearly two-fifths in Kenya to-day. The German Government nevertheless believed that this figure should not be increased as evidenced by the fact that the German authorities attempted to slow down European production by restricting the alienation of further land and by encouraging native production.[40]

The European plantations, which were the largest employers of labor,

[37] The figure was actually much larger, because some estates did not submit returns. *Die deutschen Schutzgebiete,* 1913, p. 20. It appears that before 1900, a German company imported Chinese labor—an experiment which, however, failed.

[38] From 13,000 to 16,000 were engaged on railway construction; about 3,000 were in mining; 5,000 were under government employment; 6,000 served in the police and military establishments; about 10,000 were in the employ of European merchants and the missions; about 15,000 were carriers for native merchants; about 9,000 were domestic servants and about 10,000 more were employed by native, Arab, and Indian traders.

[39] One-fifth of an estimated population of 4,500,000. Recruiting in Ruanda and Urundi was prohibited by an ordinance of December 18, 1909.

[40] *Report,* 1920, p. 35. Several years before the War, German officials visited Uganda to study native methods of production. As a result of their study the administration introduced native commercial crops along the southern shores of Lake Victoria. Address of Sir Humphrey Leggett, "African Industries," June 17, 1922, reprinted in *Dar-es-Salaam Times.*

could not find an adequate supply in the immediate vicinity. Consequently they were obliged to employ professional recruiters who secured labor from distant and relatively heavily populated areas, in many cases by means of payments to chiefs. Thousands of laborers employed in the Usambura area came from the Tabora district. Many Europeans in Tanga and Pangani relied, as they do to-day, upon labor coming from Tukuyu and Songea, a distance of six or seven hundred miles which the native covered by foot. At least twenty-five thousand alien laborers were and are employed in Tanga alone. The best workers in Tanganyika, such as the Nyamwezi tribe, are also the best agriculturists, and have the most highly developed tribal society. But instead of encouraging the growth of their natural qualities, the government assisted the European plantations to entice away as many men as possible.[41] In 1913, the German Government issued regulations which put recruiting under severe control. They limited the number of recruiters, punished systematic deception of natives, and prohibited the recruiting of women and children. The term of engagement was increased, however, from one hundred and eighty to two hundred and forty working days.[42] European planters complained that they could not secure sufficient labor under these restrictions. If a laborer, having signed a contract, did not work twenty days a month he was liable to punishment. This provision was apparently designed to correct the practice whereby many employers had obliged a laborer to work only a few days a week.

In order to supervise labor conditions, the government Estimates provided for five district commissioners who acted as labor inspectors. They signed recruiting permits, viséd contracts, inspected working conditions, and exercised disciplinary powers. Like other administrative officials, they could administer flogging up to twenty-five strokes to natives under employment who were negligent in performing their work.[43] It appears that the exercise of these powers was frequently brutal, and otherwise abused.

During the World War—which caused the German plantations to shut down—native labor became disorganized and indisciplined. But after the sale of the ex-German plantations, the recruiting of labor recommenced with full force. For some reason the Tanganyika Government neglected to enact a Masters and Servants Ordinance until 1924.

[41] In instructions to administrative officers in October, 1907, which came at the end of the Maji-Maji rebellion, Governor von Rechenberg said: "Natives living in plantation areas should be obliged to work in principle for plantations against their will only in exceptional cases. . . . In the future, administrative officers should take note of this, but this does not prevent them from making known to the jumbe and akidas in a general way and without any compulsion the wish of the government that their people participate in labor." *Landes-Gesetzgebung,* Part II, p. 294.

[42] Verordnung, February 5, 1913. *Lexikon,* Vol. I, p. 77.

[43] Cf. Vol. I, p. 449.

In the meantime, the government made no provision for labor inspection, and established little control over recruiting.[44]

7. *The Labor Law*

On January 1, 1924, a Masters and Native Servants Ordinance finally went into effect. Like those in other British territories, this ordinance requires recruiters or "labor agents" to secure a permit from the administrative officer in the district concerned to recruit labor; contracts, if entered into, must be attested by an administrative official; the employer is obliged to provide food, housing and medical care for his employees as defined by government regulations; compensation not to exceed the amount of two years' wages must be paid for accidents unless caused by negligence. The maximum period of a labor contract is fixed for two years, which is twice the period allowed under the German law. A contract of service to be performed outside the district in which the servant is engaged shall not be binding upon the servant unless it is in writing, and attested by an official certifying that the native understands that "he is liable to criminal prosecution for breach of the contract." No contract shall be attested unless it accurately specifies the terms of employment.

Until the government issues regulations defining what provision employers must make in regard to housing, clothing, food, and medical care, one cannot say that Tanganyika labor is receiving the protection given labor elsewhere in Africa. In the absence of such regulations and of a corps of labor inspectors, Tanganyika labor receives virtually no protection at all. The 1926-27 Estimates provide, however, for five labor officers.

It appears that in the last several years, the condition of plantation labor in some parts of Tanganyika has been distinctly bad. The Medical Department[45] reports that in a typical case: "On arrival at the plantations the laborers were turned on to build any sort of shelter, and within a day or two were put to work. The Diet issued was deficient in quality and variety, and there was no adequate arrangement for Hospital accommodation, medical attention, water supplies, kitchens, latrines, etc. As a consequence, dysentery, bowel troubles and deaths ensued, and the proportion rendered unfit was large." In an attempt to remedy this situation, the Medical Department issued a memorandum for planters in regard to the care of native laborers, which had of course no legal weight.[46]

In 1926, a special Labor Commissioner reported: "The condition of the

[44] In 1920, a government notice laid down certain conditions for the employment of natives by Europeans; but as it had no legal force, it was not obeyed.

[45] *Annual Medical Report*, 1924, p. 38.

[46] *Memorandum dealing with the Care of Native Labour on Plantations*, Dar-es-Salaam, 1925.

accommodation for labor on most estates leaves much to be desired. . . . A decided improvement is nevertheless beginning to show itself, and many estates are making praiseworthy efforts to introduce better accommodation; unfortunately, the standard was in the past so low, that managers in very many cases quite fail to realize their shortcomings; a great advance is required before we can regard the position as at all satisfactory." [47]

Child labor exists to a certain extent on the European coffee estates in Tanganyika as in Kenya. The work of these children usually consists in the collecting of insect pests and light weeding and picking; and as the work is not heavy and is in the open air, employers do not believe it is physically harmful. Administrative officials, however, have believed otherwise. In 1920, they attempted to issue regulations prohibiting the employment of such children.[48] But these regulations did not have the force of law, and the European settlers declined to obey them. Even though the work may be physically unobjectionable, the employment of children at an early age hinders their education, the opportunities for which otherwise are constantly increasing, and it makes them undisciplined.[49]

Having gone to the trouble of recruiting labor, or of paying for the recruiting of labor, an employer naturally insists that his laborers work regularly and well, and that they work to the end of their contract. But especially when labor is recruited under various forms of pressure, the native does as little work as possible, and he commits many other minor offences and nuisances which are irritating to the employer. The Germans attempted to remedy this situation by authorizing administrators to inflict corporal punishment. While the British vest similar powers in the hands of administrators, they are usually miles away from the place of employment and employers are constantly tempted to take the law into their own hands. The Tanganyika Labor Commissioner says, "So great is this difficulty of dealing with minor offences, that the practice of illegal punishments is undoubtedly widespread." This punishment usually takes the form of a thrashing or a fine.[50]

In an attempt to remedy this state of affairs, the Commissioner recommended that employers should be authorized to inflict fines up to five shillings per employee in any one month for infractions of plantation regulations, subject to appeal to an official. The Governor, however, did not believe that employers should be empowered to adjudicate offences

[47] Report by Major Orde Browne, *Labour in the Tanganyika Territory,* para. 125.

[48] Notices of February 4, 1920, and October 27, 1921, discussed in *Dar-es-Salaam Times,* July 26, 1924.

[49] For the same type of employment in Kenya, cf. Vol. I, p. 353.

[50] *Labour in the Tanganyika Territory, cited,* paras. 136, 248.

against themselves. But the question was different in regard to offences against sanitary regulations; and he agreed that employers should be allowed to inflict fines of five shillings a month for breaches of sanitary regulations.[51] However justifiable in theory this power may be, the difficulty of limiting it to sanitary abuses will be much greater than if the power did not exist at all. Under the guise of punishing the violation of a sanitary regulation, the employer may impose fines for anything which meets his displeasure —and the native has small redress. The experience of a similar system in the Belgian Congo illustrates the dangers involved.[52]

8. *Desertion*

Under the Tanganyika Masters and Servants Ordinance (sec. 33) desertion is a criminal offence cognizable to the police. The ordinance is therefore more severe than the Masters and Servants Ordinance in Kenya.[53] A native deserter is liable to a fine not exceeding one hundred shillings or to imprisonment for six months or both. This provision is more severe than that in the Masters and Servants Ordinance in Nigeria or similar legislation in French territory, where desertion is punishable by imprisonment only in case the deserter fails to pay the fine. Neither paying a fine nor serving a term of imprisonment shall have the effect of cancelling a deserter's contract of service. This means that after serving his sentence, a native can be compelled to return to his employer—also a provision of great severity which is not found, for example, in the labor legislation of Sierra Leone.[54]

Still more astonishing is section 31 of the Tanganyika ordinance which provides that the court may order any male person, if he appears to be under the age of sixteen "and to require punishment in the way of discipline," and is liable to punishment under the ordinance, "to be detained for one day in any suitable place of detention, and to be corporally punished," in accordance with the Whipping Regulations. Thus a native boy who is guilty of "neglect of duty" or of "desertion" may be whipped to the extent of twelve strokes.[55]

Both English and American courts decline to enjoin an employee from breaking his contract of employment by means of a penal sanction (which

[51] Para. 39, Governor's Despatch, *ibid., cited.* [52] Cf. Vol. II, p. 555.

[53] But Kenya has a registration system which Tanganyika will probably adopt in a modified form.

[54] The Manual Labor Regulation, Cap. 120, *Laws of Sierra Leone,* sec. 7 says that any servant who refuses to perform his work "shall be liable, on summary conviction, to a fine not exceeding two pounds, and, in default of payment to imprisonment with hard labor for a term not exceeding one month, and in addition to such fine, shall forfeit all claim to wages or remuneration." Note that in Tanganyika as in Kenya and Uganda the courts may impose a fine of one hundred shillings or imprisonment for six months.

[55] Whipping Regulations of 1915, *Ordinances,* Vol. I, p. 11.

the Tanganyika Ordinance embodies). The American courts take the position that to compel a man to work against his wishes, despite the fact that he has signed an agreement for such employment, is to force upon him involuntary servitude prescribed by the 13th amendment to the Constitution of the United States. Under European law, the only recourse of the employer is to sue the employee for damages.[56]

While the terms of the mandate do not explicitly prohibit "involuntary servitude" as does the 13th amendment to the Constitution of the United States, they do prohibit "all forms of forced or compulsory labour." Possibly there is a difference between compulsory labor—i.e., labor which a person is obliged initially to undertake against his will—and involuntary servitude, where, after voluntarily signing a contract agreeing to work for a definite period, a person later wishes to terminate his employment before the completion of the period stipulated in the agreement. But in view of the broad scope of the mandate, and of the very great danger that natives do not understand the terms of the contract which they sign,[57] or are indirectly obliged to sign such a contract against their will, it seems that this interpretation is too restrictive, and that "involuntary servitude" is a form of forced labor which is prohibited by the terms of the mandate. If this interpretation is correct, labor laws which make desertion a criminal offence do not conform to the obligations of the mandate.

Notwithstanding these provisions, the Tanganyika Government says that "it is difficult to trace deserting natives so that, in practice, the native is free to break his contract when he pleases as the chances for his arrest and conviction are slight." [58]

But instead of repealing the penal sanctions of the ordinance, the government is now taking steps to make the enforcement of such sanctions more effective. The Labor Commissioner, in his report of 1926, recommended the appointment of labor officers with power to punish labor offenses on the spot. He proposed that employers should be allowed to appoint as proxy a responsible employee—presumably a native—to appear in cases where native laborers are being prosecuted under the Masters and Servants Ordinance. In order to trace deserters, and to provide for the identification of every native in the territory, he also recommended

[56] Cf. Bailey v. Alabama, 219 U. S. 219; Stocker v. Brockelbank, 3 Macnagnton and Gordon, 250 (1851).

[57] The writer has seen administrative officers in Tanganyika and elsewhere attest these labor contracts with a view to making sure that the natives understand the terms. The invariable practice is to line up twenty or thirty natives and hurriedly read over the terms of the contract, and ask those who understand what they mean to hold up their hands. Naturally, each man holds up his hand. This attesting process is not, therefore, a protection of much importance. For the similar opinion of South African officials, cf. Vol. I, p. 35.

[58] Reply to the League of Nations Questionnaire, *Report,* 1925, p. 87.

that every native should be obliged to carry a tax ticket while outside of his own district.[59]

While such a system would be less irksome than the pass system of South Africa or the "kipandi" system of Kenya, it nevertheless subjects the native to a form of restriction which does not exist in purely native states, such as Uganda, Nigeria, or the Gold Coast. Moreover, as the Labor Commissioner points out, the tax ticket will not be as effective as a method of detecting desertion or "crimping" [60] as the South Africa or Kenya system. Consequently, Tanganyika settlers, moved by the same impulses as settlers in other parts of South and East Africa, will probably demand more drastic measures of keeping laborers on the job—a demand which will grow with the increase in the number of settlers.

Recruiting methods for the plantations in Tanganyika are similar to those in Kenya. There is no central recruiting bureau as there is in Southern Rhodesia, South Africa, and the Belgian Congo.[61]

There are, however, a large number of recruiters who roam throughout the territory urging natives to sign labor contracts. A number of old German recruiters have returned and have in some cases succeeded in taking labor away from railway construction work—labor which so far has been voluntarily recruited. Among the Wanyamezi, at least, recruiters no longer dare to bribe chiefs for men because the native has been educated by experience, by administrative officers, and by missionaries so that he knows that he cannot be obliged to work against his consent. What effect the new labor policy of the Tanganyika Government may have upon this situation will be discussed later.

9. *Social Results of Recruiting*

In view of the under-population of Tanganyika and of the concentration of European estates in the Kilimanjaro region and along the Central Railway, the labor for these estates must be recruited from long distances, involving, in some cases, walks of five hundred miles. In the past, recruiters have paid little attention to the physical needs of laborers in making these journeys. Exposed to cold and under-nourished, and exhausted by the long distances they have been obliged to cover, many natives become ill upon arriving at the place of employment. The Tan-

[59] *Labour in the Tanganyika Territory,* para. 210.

[60] "Crimping" is the practice of decoying away labor by one employer from another. By this means, an unscrupulous employer may gain labor at the expense of his neighbor who has gone to the trouble of recruiting it. It is usually carried out "by plausible and well-paid native employees, who are sent to give glowing accounts of conditions on their employer's estate." *Labour in the Tanganyika Territory,* para. 77.

[61] Cf. Vol. I, pp. 31, 224, Vol. II, p. 535.

ganyika Medical Department has stated: "The death rate is higher in large compounds than in small ones, irrespective of more efficient sanitary organization, and the explanation lies in a variety of reasons. Small compounds are usually filled by local natives who are accustomed to the local conditions of climate and food, and who, moreover, possess some immunity to the local diseases. The circumstances are, however, entirely changed when there is an influx of large numbers of men who frequently come from areas as distant as four hundred to five hundred miles, arrive in a fatigued condition, and find themselves in surroundings and conditions totally different to what they were accustomed to. . . ." [62]

The Tanganyika Labor Commissioner describes the journey of the native laborer to a plantation as follows:

"To an unsophisticated and inexperienced African, this journey must represent a really formidable enterprise, requiring some considerable courage when undertaken for the first time. He must depend upon the advice of a friend for all particulars about the roads and districts to be traversed, he has no experience of the sort of provision to be made for maintenance on the way, he has no idea what may become of him should he fall sick on the road, he must leave his family and property for a considerable period, he must go among strangers and work at an unfamiliar task for an employer of whom he knows nothing beyond the recommendation of a friend. Should he have entered into a contract with a labour agent, he is at any rate relieved of responsibility for his food and welfare *en route,* but against this, he is haunted by the fear that he may have fallen into a trap in agreeing to a contract which restricts his right to return home whenever he feels inclined. Under such circumstances it is not to be wondered at that he is reluctant to brave the unknown; rather, it is highly astonishing that many thousands of natives should embark upon such an enterprise every year. . . . The native perforce takes with him as provisions such articles as are adapted to travelling, . . . fresh vegetables or meat he cannot carry, and can seldom obtain on the way. The scarcity of utensils, and the extra weight to be carried, reduce cooking appliances to a minimum, so that even such food as is available is badly and insufficiently cooked, while the daily march also militates against proper preparation of meals. In consequence, the labourer arrives at the place of employment after an exhausting journey on an inadequate and deficient diet; he is, in fact, quite unfit for any heavy work, and is ripe for scurvy and beriberi. . . . It is obvious that the movements of thousands of previously untravelled natives must bring them into contact with numerous diseases which they have not encountered before, and against which they have therefore had no opportunity of acquiring the partial immunity that sometimes seems to occur in the case of more exposed tribes. While malaria and some other ailments may be considered as fairly evenly distributed throughout the Territory,

[62] *Memorandum dealing with the Care of Native Labour on Plantations.*

certain diseases, such as hookworm and spirillum fever, are much more limited in occurrence; there seems to be little doubt that the present system, or lack of system, is steadily spreading such afflictions through previously uninfected tribes, owing to the return home of laborers from areas of incidence. . . . In addition to the question of health, there are also economic and moral evils to be considered. The constant stream of travellers through certain towns has created a definite parasitic class, of which the 'three card' manipulator is about the most respectable; these people prey upon the ignorance and credulity of the unsophisticated native, in every sort of way; it is little exaggeration to say that they go far to deprive him of most of the reward of his toil. The seeker for work offers little attraction for this class; he is merely the subject for extortionate bargains in food or work; the returning labourer, however, has money or goods of which he can be fleeced; and a horde of male and female harpies throw themselves into the task with enthusiasm and enterprise; the principal towns on the labour routes are all more or less infested with such creatures, who vary from regular jailbirds to the half-instructed, but quite uneducated, product of some ill-managed school. Small wonder that the returned worker has too often little but an infection of disease to show for his efforts!" [63]

To improve the conditions under which laborers travel, the government is now establishing rest camps and improving communication facilities. Nevertheless, many of the evils of this type of migratory labor are inherent in the system, as proved by the fact that despite the most energetic and humane efforts of recruiting organizations in the Congo, in South Africa, and in Rhodesia, they still exist.[64]

Even if the physical conditions under which labor is recruited are improved, the social effects of this ebb and flow of a migratory labor supply would remain. The first of these effects is "detribalization" which is, according to the Tanganyika Labor Commissioner, "an evil which looms largely in the vision of many administrative officers." He continues:

"It is also the basic idea which makes many native headmen reluctant to allow their people to go to work. In its worst form it is illustrated by the man who has gone away from his own village and settled among the strangers, probably in a town; there he has forgotten the salutary restrictions which tribal custom imposed, and has failed to acquire any rules of conduct to replace them; such a man is obviously likely to become demoralized and fall into crime. If this is so with the man, it is even more so with the

[63] *Labour in the Tanganyika Territory,* pp. 51 ff. On the other hand, the employment on a European estate has tided natives over the occasional famine periods to which African tribes are subject; but these famines would be overcome by a properly organized system of native production. Under the Native Foodstuffs Ordinance, the government may require natives to cultivate crops of foodstuffs to prevent famine.

[64] Cf. Index—Recruited Labor.

woman; freed from the many restraints of tribal life, she lacks any standard, and usually becomes utterly immoral. . . .

"The presence of women on a plantation presents a difficult problem. In view of the distances to be travelled, and the hardships of the journey, it is scarcely to be expected that natives will bring their wives with them when coming to work; there is also a strong prejudice among most tribes against taking their women from their own villages. . . . It is unfortunate that this should be so, for there are many advantages in the presence of women with their husbands. The man is happier, his food is better prepared, his hut is kept cleaner, and he is leading a more normal life; from the employer's point of view, the labourer is more contented and therefore likely to stay longer.

"The welfare of the tribe is also affected by the wife remaining at home; while she is thereby sheltered from the dangers of foreign adventure, there is always a risk that the returning husband will discover that she has been unfaithful, with consequent disruption of the family. Alarm on this account, aroused by omens or dreams is indeed a not uncommon cause for desertion by labourers. Another contingency is the return of the husband infected with venereal disease, possibly rendered worse through being masked by some violent and dangerous native remedy; this is a common cause of contamination in up-country tribes, as headmen will frequently aver.

"In any case, the prolonged absence of the husband has in some form or another a deleterious effect upon the tribal birth rate, already unfortunately low in many sections." [65]

From other sources, the writer was told that as a result of emigration to labor centers, the birth rate of the otherwise prolific Wanyamwezi had been curtailed. It is probable that the efforts of the Tanganyika Government in bringing about the growth of the native population will fail if the migratory tendencies of this population increase.

10. *The Labor Supply*

At the present time, the number of laborers on European plantations is estimated as follows:

Contracted laborers, outside of their own district.....	9,155
Non-contract laborers " " " " "	25,700
Laborers employed in their own districts.....	92,500
Total	127,355 [66]

It is not clear from the report whether or not these laborers are all employed on European plantations. But such is the interpretation given by the Governor to these figures.[67] If this interpretation is correct, it means that the Tanganyika plantations to-day employ forty thousand na-

[65] *Labour in the Tanganyika Territory,* pp. 73-74.
[66] *Ibid.,* p. 105.
[67] *Ibid.,* p. 18.

tives more than before the War. Large as the present number in Tanganyika is, it is less than half the percentage under employment in Kenya. Kenya's success is partly due to the fact that she has confined her native population in relatively over-crowded reserves from which it is easy to reach labor centers. In Tanganyika there are, except for the Masai and Kilimanjaro areas, no reserves, and the natives are not subject to the pressure which thus exists in Kenya.[68]

Partly because of the absence in the past of this pressure, planters in southern and central Tanganyika are complaining of a labor shortage. A number of them, in talking to the writer, stated that unless they procured government aid, they would have to close down their estates. Although the district of Tanga needs forty thousand men, it has only twenty-five thousand on hand. In its 1925 report to the League of Nations, the Tanganyika Government—which is naturally inclined to minimize such difficulties—said:

"Labour requirements by private individuals increased during the year owing to the extension and development of plantations. While in some cases the shortage was acute the position as a whole cannot be said to have been really serious, except in the Tanga district where the shortage was the worst in the history of the local sisal industry. Contract labour was obtainable in totally insufficient numbers while the labour which used to make its way down to the Coast from the western and south-western districts in search of work only appeared in small quantities. The closure of certain districts to recruiting owing to sleeping sickness, competition from the Lupa Gold fields, from the Tabora-Shinyanga railway extension and from plantations on the central line, increased economic native development throughout the Territory, and a very ill-advised diversion of labour to the temporarily lucrative task of rubber tapping were all factors which led to a serious shortage of labour for sisal plantations on the Coast." [69]

While improved treatment of labor, a better system of recruiting and transport, the adoption of machinery and other labor saving devices, and the cultivation of crops which require a minimum number of men may ease the situation, it is doubtful whether these measures can permanently relieve a shortage which will, on the contrary, be aggravated by the opening of new mines and farms, and by the increased production of native crops, which will be the result of agricultural education and the opening of new communications. The Tanganyika Labor Commissioner says:

"The crux of the labour position lies in the fact that the demand is, and is likely to remain, in excess of the supply; while proper organization and

[68] The railways of Tanganyika grant especially cheap rates to recruited labor as do the railways of Kenya.

[69] *Report*, 1925, p. 26.

greater economy in use may be expected to do much to improve the present situation, the almost universal tendency for enterprises to expand to the limit of their labour supply will ensure the prompt absorption of all labour offering, apart from the creation of new fields of employment. . . . The crux of the matter lies in the rate of development; the enterprises now in the country would almost all expand up to the limit of their labour supplies and it is mainly shortage that restricts them. If therefore rapid and ill-considered development takes place in other and newer directions, there will certainly arise an acute shortage of labour at any rate for a while; more cautious and far-sighted progress should on the contrary enable a steady advance to be made without jeopardizing existing interests." [70]

In other words, European enterprise in Tanganyika is experiencing the same phenomena it has experienced in South Africa, Southern Rhodesia, Kenya, and the Belgian Congo.

The labor factor is of much more immediate importance to the native inhabitants of Tanganyika than the land factor. And it is from the point of view of labor that the proposal of the government to open up the Iringa and Rungwe districts to European settlement should be considered. If a European farmer, located on uninhabited land, provided his own labor supply, his presence would not affect native life in the territory one way or another. But no European farmer in East Africa furnishes his own labor; he relies upon that of the black. If he should take up land in the Iringa district, he would be obliged to rely upon recruited labor because of the fact that that district is depopulated. While the situation in the Rungwe district is more favorable from the labor standpoint, sooner or later European agriculture, once it is allowed to enter the territory, will outrun the local supply, and it will be obliged to scour the country for recruits. In other words, this policy of land alienation, wholly apart from the question of its effect upon the rights of the native in the land, will intensify an existing labor shortage, and thus increase the evils of the recruiting system.

Confronted by the fears of a shortage, European and Indian settlers, who have invested savings in these plantations, naturally demand that the government come to their aid. In the spring of 1924, the Planters' Association of Tanga submitted a memorandum to the government on the Masters and Servants Ordinance, asking that government officials be given the power to make natives "available for work unless in possession of other visible means." Kilimanjaro planters have urged that natives should be obliged to work so many months out of the year unless they produce crops of a certain commercial value. The *Tanganyika Times* recurrently argues,

[70] *Labour in the Tanganyika Territory*, p. 98.

at least in veiled terms, for a system of compulsory labor.[71] As the labor shortage grows with the augmentation of European enterprise, the demand for pressure will inevitably increase—and it will be a demand which the local administration will find it extremely difficult to resist. Having invested heavily of their capital and their time, settlers will not confront bankruptcy brought on by a labor shortage with complacency. The experience of Kenya shows that it is easier to limit the number of settlers who take up land than to resist their pressure for labor once they have been admitted.

11. *Labor "Pressure"*

Although the first Governor of Tanganyika was pledged to the idea of native development even to the detriment of competing European enterprise, the present Governor has felt it necessary to modify this position. In a despatch to the Secretary of State, accompanied by the report of the Labor Commissioner, he declared: "So far, the attitude of the Government has been one of neutrality as between the competing claims of peasant cultivation and labour for the plantations." [72]

This attitude of "neutrality" implies that in making a choice between the two systems, the native is a free man and that he will follow his own interests. This conception of the economic man, acting only according to the dictates of reason, and the idea of equality between the employer and a single employee has long since been overthrown in Europe where the State has come to the aid of the laborer and of the small farmer in their dealings with powerful groups of capital. The reasoning which has led to the rejection of the *laissez-faire* doctrine in Europe applies with much greater force to Africa—to the dealings between primitive and white peoples. The native has the weakness of a child. He is easily ensnared by the enticements of Europeans wishing to acquire his labor and his land. Even if he does understand the nature of the contract which he signs, he seldom thinks of the consequences of employment five hundred miles from his home, to himself or to the group to which he belongs. It is difficult to see how a government, animated by the trusteeship principle, can follow an attitude of "neutrality" in these matters, and live up to its obligations. It must come to the aid of the native in his relation to the European employer, and just as it insists that the employer must conform to certain standards of employment out of consideration for the welfare of the native, it should insist for the same reasons upon limiting the extent of such employment.

The Tanganyika Governor goes on to say: "there is strong reason for

[71] Cf. editorial "The Tanganyika Planters," *Tanganyika Times,* December 11, 1926.

[72] *Labour in the Tanganyika Territory,* p. 12.

believing that, if departure is made from this policy [of neutrality] in the direction of active inducement of the native *by the administrative officer* to take up cultivation on his own account throughout the Territory, expansion of non-native cultivation must cease." The Governor does not, apparently, wish this to happen because the territory will "get a bad name and capital will be driven away." The Governor has doubtless forgotten that on the west coast of Africa, capital, in the form of trading firms, has appeared in abundance to market the products of peasant farmers. In view of the fact that in other mandates and colonies, administrative officers are doing their best to encourage the native farm system, this statement on the part of the Tanganyika Administration, disapproving such a policy, is disquieting.

But the Tanganyika Administration has gone even further in this policy of so-called "neutrality." In the Conference of East African Governors, held at Nairobi in the winter of 1925-26, the Government of Tanganyika subscribed to a declaration, discussed in greater detail in the next chapter [73] to the effect that the government would virtually oblige natives to work either for themselves or for European employers. If natives are unable to sell their own products because of the absence of transport facilities—a condition which exists in vast areas—they will be "given to understand" that they must seek European employment, no matter at what distance from their homes. In a circular on Agriculture and Labor, August 5, 1926, the Governor expressly stated, among other things: "In localities in which the native cannot grow economic crops owing to lack of transport facilities, Administrative Officers can best serve the State by exhorting the natives, through their chiefs, to adopt some form of active work, pointing out that situated as they are they can only do so profitably by engaging to work for the Government or on the farms which are seeking their labour." [74]

Under the provisions of the mandate, Tanganyika is allowed to impose compulsory labor only for "essential public works and services." Compulsory labor is no less compulsory because it is indirect. The Temporary Slavery Commission of the League has said that "forms of direct or indirect compulsion the primary object of which is to force natives into private employment are abuses," and also that "indirect or 'moral' pressure, if exercised by officials to secure labour for private employment, may, in view of the authority of such officials over the minds of natives, be in effect tantamount to compulsion and calls therefore for prudence on the part of the Administration." [75]

[73] Cf. Vol. I, p. 526.

[74] The full text of this circular is printed as an appendix to this section, Vol. I, p. 550.

[75] *Report of the Commission to the Council of the League of Nations,* A. 19, 1925, VI paras. 115, 116.

It seems clear that all forms of pressure are prohibited by the mandate, and that the Tanganyika Government, if it thus obliges natives to work under certain conditions for European employers, will violate the most fundamental clause of the mandate—the prohibition of compulsory labor.[76]

In the development of native self-government, education, and in agricultural, veterinary, and medical work, the Tanganyika Government is making splendid efforts to further the progress of the African native. But as the experience of Nigeria, the Gold Coast, Uganda, Portuguese East Africa, and the Transkei shows, it is impossible to bring about an increase in the native population and build up a native society, when a large proportion of the people are nomadic in nature, obliged to spend periodic sojourns in European labor centers.[77] It is probable that if they do not increase, the settlers now in Tanganyika can find an adequate labor supply without seriously disturbing native life. But if the government adopts a policy of land alienation—thus increasing the demand for labor—and if it vigorously applies the "East African" labor doctrine to which it has subscribed, its efforts in building up a native institutional life will be doomed to failure. It is significant that the German Government in East Africa before the War, realizing the effect of extensive European development, restricted the alienation of land in order to reduce the demand for labor. It is significant that the Belgian Congo is imposing similar restrictions to-day. In contrast to the policies of these territories, the Tanganyika Government, which unlike the German and Belgian Governments is subject to specific obligations imposed by the Treaty of Versailles to advance the welfare of the native, is employing a land and labor policy which will accentuate, rather than restrict, the evils which the uncontrolled introduction of European industry into Africa involves. The result will not be increased economic gain to the British Empire or to the European world. As other sections will show, the native peasant farmer is, in the long run and provided he is given the proper kind of government aid, as productive as or even more productive than the European landlord working with a system of colored wage earners.

[76] While the Governor does not object to administrative advice, he does object to the use of taxation as a method of promoting a labor supply. He says: "To my mind, it is of vital importance in a country like this that no attempt should be made to force the native to work for others by imposing taxation which he cannot earn the means to pay unless he leaves his district to work on the non-native plantations, and I have steadfastly refused to increase the tax in the districts in which the natives cannot augment their earnings by working for themselves or on such Government works, if any, as may offer. Coercion of labour by pressure of direct taxation is little, if anything removed from coercion of labour by force; the latter is the more honest course." *Labour in the Tanganyika Territory*, p. 10.

[77] The death rate of labor recruited great distances from labor centers in both the Gold Coast and South Africa is much higher than the death rate of locally recruited labor. Cf. Vol. I, pp. 33, 827.

CHAPTER 30

A DOMINION OF EAST AFRICA

THROUGHOUT the history of the British Empire, a centripetal process has been at work which has drawn together smaller units into larger wholes. Such has been the history of the American colonies which after acquiring their independence came together in the United States; such has been the history of the states of Canada, of Australia, and of the colonies of South Africa. But as long as Germany occupied British East Africa—a territory wedged squarely between the British possessions of East Africa, of Nyasaland, and Northern Rhodesia—the dream of a similar process bringing together the territories of British East Africa into a new Dominion of the Empire could scarcely be realized. Despite these obstacles Mr. L. S. Amery, who is now Secretary of State for the Colonies, wrote an article as early as 1909 advocating the establishment of some such federation under a single High Commissioner, having lieutenant-governors for each territory, and improved communications and scientific agencies.[1]

1. *Federation Schemes*

The solemn responsibility of public office has not apparently dimmed this dream. For at the East Africa dinner in June, 1926, Mr. Amery said that the "conception of East Africa as an entity of its own" had "made steady progress during the last year" and that "the ideal of a united East Africa" was "steadily growing." [2]

With the outbreak of the World War and the East African campaign, speculation as to the possibilities of a British East Africa became numerous. It was assumed by many English writers that German territory in this part of the world which housed resources probably equal to those of Kenya and Uganda combined would pass to the Union Jack. Several writers proposed that, having secured German East Africa, the British Government should establish a federation of territories stretching from the Zambesi to the Sudan; and some of them believed that in order to revive its historic past, Zanzibar should be the capital.[3] Other writers

[1] Reprinted in *Union and Strength,* Ch. XIV, London, 1912.

[2] *The* [London] *Times,* June 12, 1926, p. 13, col. 4.

[3] Sir Harry Johnston, "The Political Geography of Africa before and after the War." *Geographical Journal,* Vol. 45, 1915, p. 286. He had in mind, however, a federation primarily given over to native interests. Rev. A. Hetherwick, "Nyasaland Today and Tomorrow," *Journal of the African Society,* Vol. 17, 1917, p. 19

would locate the capital at Nairobi, or on the slopes of Kilimanjaro or even on Lake Kivu, in territory which during the War some Englishmen believed would fall to the Empire but which is now part of the Belgian Congo. One writer proposed that a High Commissioner or Governor-General and Council be appointed to preside over the existing territories which should retain their governors and their legislative councils, but the boundaries of which should be modified to conform to tribal needs. Associated with the Governor-General should be a Secretary of Native Affairs and heads of departments who should advise as to policy in each of the territories with a view to coordinating the interests of East Africa as a whole.[4]

At least one East Africa Governor has expressed the wish that confederation should be established "within reasonable distance." [5]

Approving this plan in 1927 the *Tanganyika Times* declared: "Every day of his life the settler is made to feel the prick of control from London exercised by men whose only knowledge of our Territory and its problems has been gained from text books augmented by an occasional flying visit . . . [and] who display an extraordinary unanimity in the belief that their countrymen in Africa are unfitted to govern the subject races resident therein. They are tenacious in that belief and the only thing, apparently, that will shake them out of it is an ultimatum from the East African Territories to the effect that they are determined to band themselves together into an East African Federation or a United States of East Africa, and insist upon a form of Government similar to that of South Africa." [6] It asked that a convention, similar to that which preceded the Act of Union in South Africa in 1910, be called.

The advantages urged in favor of the federation of East Africa are the elimination of duplication in administration and of competition in such matters as railway policy, so as to promote the greatest economic development of the territories. Federation would also facilitate the flow of native labor from one area to another. But perhaps the greatest urge back of the movement is the imperial ambition of adding another star to the cluster of Dominions which now shine forth in the Imperial Firmament. This ambition seems more firmly implanted in the Conservative Party than elsewhere.

When one speaks of a Dominion, he means a self-governing territory which in turn presupposes white settlement. The European occupation of

[4] Africanus, "A Central African Confederation," *ibid.*, Vol. 17, p. 276.
[5] Sir R. T. Cornydon, Governor of Kenya, "Problems of Eastern Africa," *ibid.*, Vol. 21, 1922, p. 177.
[6] *Tanganyika Times*, January 22, 1927, "Kenya and Co-ordination," p. 16.

East Africa is therefore a necessary preliminary to the realization of the Dominion ideal. Throughout all of the five territories now comprising British East Africa, an interior plateau will be found, parts of which have been found suitable for white settlement. In Kenya, two thousand families have already settled; Northern Rhodesia has five hundred, Nyasaland two hundred and fifty, Tanganyika three hundred, and Uganda one hundred. These families are endeavoring to make a living out of the soil as do the European farmers in Australia and New Zealand, except that they depend upon native labor. The extent to which alien peoples have invaded East Africa may be seen from the following table:

LAND ALIENATION IN EAST AFRICA

Territory	Total Area (Sq. Miles)	Land Alienated to Europeans (Sq.Miles)	Population			
			European	Indian	Native	All Others
Kenya	245,060	12,000	11,002	24,771	2,560,983	9,753
No. Rhodesia ..	291,000	19,000 [1]	4,182	201 [2]	1,000,000	
Nyasaland	39,315	6,192	1,421	613	1,173,838	
Tanganyika ...	373,494	2,782	2,447	10,950	4,106,055	4,041
Uganda	110,300	134	1,451	7,229	3,136,769	
Total.....	1,059,169	40,108	20,503	47,905	11,977,645	9,753
So. Rhodesia ..	150,353	48,489	33,620	3,634	862,319	
So. Africa	473,089	429,174	1,610,774	170,934	4,953,743	558,476

[1] Part of this territory is subject to native reserves not yet delimited.
[2] Includes Asiatic and colored.

According to these figures, the area and native population of East Africa is more than twice that of South Africa. At the present time, the European population of East Africa is, however, only one-eightieth of the population of South Africa. The land alienated to Europeans in East Africa is about one-sixteenth of the land alienated to Europeans in South Africa. The territories of East Africa have a European population of about two-thirds that of Southern Rhodesia. East Africa has alienated nearly as much as Southern Rhodesia. While the Indian population is decisively outnumbered by the Europeans in both South Africa and Southern Rhodesia, it outnumbers the whites two to one in East Africa.

In considering the possibilities of establishing a federation of East Africa, the native problem cannot be overlooked. European enterprise not only demands native labor, but it also demands land which in some cases the natives need. Will the establishment of an East Africa Dominion

bring with it the almost insoluble native problems which now confront South Africa? Or will it be possible to devise a system which, while satisfying the demand of the white communities for unity, self-government, and the basis of an economic existence, will give the natives the same opportunities for development which they are receiving elsewhere on the continent? Before attempting to answer these questions, we shall first discuss the efforts now being made to bring about a federation of, and to promote white settlement in these territories.

The first step in this movement toward federation has been the demand of the settlers in these territories, particularly in Kenya,[7] for self-government. At the Tukuyu Conference of East Africa settlers, a resolution was passed to the effect that "direct control over the East African territories is too great and is in some cases increasing and ought to be diminished." At the Livingstone conference, a resolution was passed stating that the intervention of the Colonial Office "in the decisions of the local Legislatures should be confined as far as possible to questions of Imperial Policy."

2. *The Policy of Coordination*

The second step has been the movement to coordinate the different policies throughout the East African territories. Thus in 1922, the three territories of Tanganyika, Uganda, and Kenya held a tariff conference in which they agreed to correlate tariff policies. A Customs Union already exists between Kenya and Uganda. In addition to controlling the customs of Uganda, Nairobi officials direct the post office serving both territories. An East African Medical Service has been created, and a single East African currency is used. The King's African Rifles is a military force which moves from one territory to another wherever it may be needed. An East Africa loan of ten million pounds has been guaranteed by the Imperial Parliament. A Joint East Africa Board binds together business houses in the different territories.

In its report, the East Africa Commission rejected the idea of a federation of East Africa imposed from without, partly because of the lack of communications. It did, however, suggest that regular periodic conferences of responsible heads of departments as well as of governors should be held. Carrying this idea into effect, a number of departmental conferences are now held such as the recent conference at Nairobi (January, 1926) of agricultural and veterinary officers, and a recent conference of legal experts from the different East African territories. Advisers have been appointed to the veterinary services of two or more governments.

Before the 1927 elections in Kenya, seven elected members of the

[7] Cf. Vol. I, p. 399.

Legislative Council, in an election manifesto, proclaimed "a scheme of coordination of the Northern East Africa Territories," which should eventually embrace the Rhodesias and Nyasaland. This plan should be conditioned upon an elected majority in the Legislative Councils concerned and upon the understanding that each State should remain a separate entity and should have complete control over its own finances. The various colonies would be coordinated under a High Commissioner whose seat should be at Nairobi.[8]

The first step in this direction was taken in January, 1926, when the Governors of Kenya, Northern Rhodesia, Nyasaland, Uganda, and Tanganyika, the British Resident for Zanzibar, and the Civil Secretary of the Sudan Government attended the first Conference of Governors of the East African Dependencies, convened by the Secretary of State for the Colonies. After discussing policies common to the territories, the Conference resolved that Nairobi should be the meeting place of all full conferences which should apparently be held annually and the site of the Secretariat which should be organized. A permanent Secretary to these conferences would be appointed who should also act as Secretary to the High Commissioner for the Uganda Railway.[9] The Secretariat should include an Assistant Secretary whose salary would be paid by the Uganda Railway, and a statistician. The cost of the conference Secretariat was estimated to be eight thousand pounds, and it would be divided between the different territories.[10]

3. *The Eastern Africa White Paper*

Taking advantage of the presence of a number of East Africa Governors at the Colonial Office Conference, held in London in May, 1927, the British government discussed the whole matter of the federation of East Africa. As a result of these discussions it presented to parliament a White Paper concerning "Future Policy in regard to Eastern Africa." [11] After summarizing recent developments pointing toward the necessity for closer union, the Paper stated that the claim of European and other settlements in East Africa "to share progressively in the responsibilities of government cannot be ignored. These responsibilities, however, cannot be limited to the representation of their own community interests; and if clashes between these interests and those of the vast native populations

[8] *East African Standard,* January 1, 1927, p. 35.
[9] A position held by the Governor of Kenya.
[10] Kenya and the Kenya-Uganda Railway each would pay $13/32$ of the total. Uganda and Tanganyika $7/32$, Zanzibar, Northern Rhodesia, and the Sudan $1/32$ each. *Summary of Proceedings, Conference of Governors of the East African Dependencies,* 1926, p. 30.
[11] Cmd. 2904 (1927).

are to be avoided, their share in the trusteeship for the progress and welfare of the natives must be developed." The White Paper also states that steps should be taken to create machinery for native self-government. An investigation as to how closer union between the territories could be brought about, and whether it was possible to provide for increasing association of the immigrant communities in the responsibilities of government and for native representation, was necessary.

"In the event of investigations proving that some, at any rate, of the East African territories are ripe for the creation of a federal Constitution, consequential changes may be required in the powers and composition of the existing Legislatures. In any such changes it will be essential to maintain the principle that the administration of the East and Central African territories is based on the exercise by His Majesty's Government of a trust on behalf of the African population, and that, while they may now be prepared to associate with themselves in that trust the members of the resident immigrant communities, they are still under an obligation to ensure that the principles of this trusteeship will be observed." These responsibilities were "of the very gravest character." It would be a "fatal error" to take any decisive step "before being sure that it would be received with good will by those whose co-operation will be necessary for its success." Financial considerations could not, moreover, be ignored.

Nevertheless, the British government announced that "some form of closer union between the territories of Central and Eastern Africa appears desirable, more particularly in regard to the development of transport and communications, customs tariffs and customs administration, scientific research and defence." To determine the extent to which this union should take place, the Secretary of State would send a commission to East and Central Africa, with the following terms of reference:

(1) to make recommendations as to whether more effective cooperation between the different Governments could be secured;

(2) to consider which territories could be brought within any such closer union, provided that the measures adopted do not infringe the provisions of the Tanganyika mandate;

(3) to make recommendations in regard to the powers and composition of the various Legislative Councils (a) as the result of the establishment of any Federal Council, (b) so as to associate more closely in the responsibilities and trusteeship of Government the immigrant communities domiciled in the country, (c) so as to ultimately secure more direct representation of native interests;

(4) to suggest how the Dual Policy could best be progressively applied in the political as well as the economic sphere;

(5) to make recommendations as to improvements in internal communications;

(6) to report particularly on the financial aspects of these proposals.

In closing, the Paper stated that the Government adhered to the principles of the White Paper of 1923 both in regard to the rights of Indians and also as regards the "Imperial duty" of safeguarding the interests and progress of the native population as trustees for their welfare "until such time as they can take part more fully in their own Government and in the common affairs of all races inhabiting the territories." Why the Government should add this qualifying clause to its obligation is not clear. Moreover, the Government wished to associate more closely in this "high and honourable task of Trusteeship" the colonists of the country. It would seem by this statement that the Government has committed itself to the principle of responsible or semi-responsible government for the whites and Indians in East Africa. Much will depend upon the report of this Commission which, composed of Sir Hilton Young, Mr. J. H. Oldham, and Sir Morgan Schuster, sailed for East Africa in December, 1927.

Whatever the advantages of federation may be from the technical standpoint, the principle will be vigorously opposed by the native and Indian population of Uganda, Tanganyika, and Zanzibar out of fear that they would become subject to the régime which now applies in Kenya.[12] These fears were officially voiced by the Indian government at the time when British administration in Tanganyika was established. It declared that "in view of recent events, we may perhaps be pardoned if we regard with grave misgiving the possibility of administrative union with the adjacent territory of Kenya Colony. If there is no political equality, we fear that even the guarantee of economic equality may prove to be illusory. Experience elsewhere has shown how easy it is to subvert nominal equality

[12] In a petition to the East Africa Commission, the Kabaka and ministers of Buganda protested against the idea of federation as follows: "Our Honoured friends, you are quite aware that our Customs, Manners are totally different to those obtaining in the neighboring countries and that the Kabaka and the Native Parliament (Lukiko) are empowered to administer all Natives as already stated. Again, . . . we are being alarmed as to how the proposed amalgamation if it comes about will affect us, because a great deal of state matters that are at present being dealt with by the Native Government will come under the administration of the Governor-General's Council in which case our Country will be burdened with all sorts of taxes, Native Registration approved by the Governor-General's Council. . . . Before we close this petition we have to mention that although the proposed amalgamation may not necessarily affect our Agreement, we being a Protected Nation, do not wish to be under a Governor-General and administrating the Federated Colonies. . . ."

by administrative action." [13] On the other hand, the settlers do not wish federation until they are given responsible government.[14]

Despite the fact that it has not as yet attained this end, Kenya has attempted to influence the policy of surrounding territories for two reasons: first to advance the financial and economic position of Kenya, and second to extend the Kenya doctrine of white settlement throughout the whole of East Africa. The manner in which it has used its present position to further these aims will now be described.

4. *Protective Tariffs*

In order to promote its economic position, the Kenya Government has induced Tanganyika and Uganda to follow its tariff policy, which contains a number of protectionist items upon such articles as wheat, timber, sugar, and butter, the protection of which is being encouraged in Kenya for "nationalistic" reasons.[15]

In September, 1921, Tanganyika enacted a new tariff embodying these protective duties, despite the fact that they did not benefit producers in Tanganyika who were non-existent. This led the citizens of Dar-es-Salaam to hold a mass meeting at which they declared that such a tariff injured native interests and was therefore contrary to the text of the Mandate. They moved that this protest should be transmitted to the Council of the League of Nations and to the Colonial Office.[16] The explanation of Kenya's desire to have Tanganyika and Uganda adopt these protective duties lay in the fact that free trade had been instituted in local produce between the three territories, which meant that with the exclusion of foreign competition from Tanganyika and Uganda, Kenya producers would have a monopoly not only of the Kenya market but of the neighboring territories as well. The impositions of these protective duties increased the prices of sugar, timber, and other protective materials in Tanganyika.[17] Despite these duties, Kenya soon proved unable to supply Tanganyika with butter, which led the Tanganyika Government to abolish the protective rates on this article. Notwithstanding greater transport charges, Tanganyika now imports butter from South Africa more cheaply than it did from Kenya. Some uneasiness about this state of affairs was evidenced in a resolution passed at the Conference of East Africa Governors, 1926,

[13] By political equality it had in mind the position of Indians on the Legislative Council in Kenya. Cmd. 1312, *cited,* p. 7.

[14] Cf. Vol. I, p. 403.

[15] Cf. Vol. I, p. 405.

[16] *Dar-es-Salaam Times,* September 1, 1921.

[17] The protective timber duties created, according to the *Dar-es-Salaam Times,* an "abnormally high cost of building materials in this country." Its criticism is reprinted in the *East African Standard,* December 26, 1926.

to the effect that a conference of experts should consider the question of import duties on building materials; and that it would be advisable to admit wheat imports under certain circumstances on license at a ten per cent import duty. The question of import duties on bacon and cheese should also be considered.[18]

Although the text of the Mandate authorizes the establishment of a customs union with neighboring territories, and although the duties enacted in East Africa do not violate the open door, nevertheless the enactment by Tanganyika of protective duties for the benefit of artificial industries in Kenya, at the expense of the European, Indian, and native population of Tanganyika, would appear to violate the spirit of the Mandate provisions.

5. *The "K. A. R."*

A somewhat similar situation has existed in regard to the King's African Rifles—the military organization of East Africa. Like its sister organization, the West African Frontier Force, the "K. A. R." exists to protect all of the East African territories against rebellion or attack.[19]

At present, it is composed of five battalions, having a total of about five thousand men of which the Third is stationed in Kenya,[20] the Fourth in Uganda, the First in Nyasaland, and the Second and Sixth in Tanganyika.

According to the Mandate, the Tanganyika Government may not "organize any native military force in the territory except for local police purposes and for the defense of the territory." In order to comply with this provision, the government has locally recruited the Sixth battalion of the "K. A. R.", which because of the Mandate may be used only within the territory. This battalion is stationed at Dar-es-Salaam. But the Tanganyika Government also supports the Second Battalion which has been recruited in Nyasaland and which contains only Nyasaland natives. This battalion may be sent anywhere in East Africa. Thus in 1922, these troops were sent to Somaliland and in 1924, transportation was arranged to take them to Jubaland. But instead of being stationed in Nyasaland where

[18] *Summary of the Proceedings, Conference of Governors of the East African Dependencies,* p. 23. The conference said that "in the absence of any permanent Customs Union," it was "necessary for each territory to retain its fiscal authority," but that it was desirable for "as uniform a Tariff as possible to be maintained by agreement." The conference expressed its regret that the Mandatory system did not "allow of any system of Imperial Preference being developed in the East African territories."

[19] This force is under the Colonial, and not the War Office, subject to an Inspector-General, officered by men seconded or loaned for a period of years from their regular regiments. The troops and most of the non-commissioned officers are Africans.

[20] The Fifth battalion, formerly stationed in Kenya, is now disbanded.

it originated, this battalion has been moved by the Colonial Office into Tanganyika Territory—at Tabora—where it must be paid out of Tanganyika funds. While Tanganyika's military expenditures have declined from about 190,237 pounds in 1921-22 to 153,339 pounds in 1926-27, they are only a little less than the German military expenditures for 1914 (180,750 pounds) upon a territory which included Ruanda-Urundi. At present, the local budget must bear this expense, which before the World War was carried by the German Imperial Government.[21] At present the cost for maintaining a military unit is as high in Tanganyika as in any other part of Africa.[22]

It thus appears that Tanganyika money is being used to defend other parts of East Africa. The only possible defense for this state of affairs would be that the Nyasaland battalion is needed in Tanganyika to preserve order. If this were true—and there is no evidence that it is—Tanganyika should increase the number of companies recruited from local natives. The military policy in the French mandates is much more consistent with the mandate principle than this Tanganyika policy.[23]

6. *Railway Policy*

Likewise Tanganyika has been urged to modify its railway policy to satisfy external considerations. At the present time, the Kenya transportation system depends upon the Uganda Railway, a railway which until the last year or so extended only to Kisumu, a port on Lake Victoria Nyanza. This railway has been fed, however, by Uganda and Tanganyika produce brought to Kisumu by motor or by boat. The natives of the Mwanza district in Tanganyika at the southern end of the lake have thus shipped their produce, consisting largely of coffee, to Europe via Mombasa instead of via Dar-es-Salaam. But this means of transport has proved costly, and the Uganda Railway has paid more attention to the needs of European than of native produce. In an effort to improve the outlet for the Mwanza district, the Tanganyika Government continued the construction of a branch railway started by the Germans before the War, connecting Mwanza and the Shinyanga sub-district with the Central Railway. The

[21] *Reichshaushaltsetat, cited,* p. 706.

In 1912-13, the size of the German police force was 1840 men, maintained at a cost of 323,940 marks. *Die deutschen Schutzgebiete,* p. 3.

In 1925, the British police force contained 1822 native men, at a total cost of about 114,000 pounds. *Report,* 1925, p. 41.

In 1912-13, the Germans maintained, in addition to the police, eleven companies of troops (*Schutztruppe*) composed of about 2500 native soldiers and 261 European officers, etc. *Deutsches Kolonial-Lexikon,* Vol. I, p. 401.

At present, the British maintain two battalions of the King's African Rifles, composed of 1605 native soldiers and 68 European officers.

[22] Cf. Vol. II, p. 498.

[23] Cf. Vol. II, p. 281.

Tanganyika Government also installed a system of motor transport between Tabora and Mwanza. This policy threatened to injure the revenue of the Uganda Railway—a fact which led Sir Edward Grigg, the Governor of Kenya, to prepare a memorandum on railway construction in which he said that because of the participation of Kenya in the Tanganyika military campaign, Kenya was entitled to "be heard on common questions such as railroad development even outside her own frontiers." [24] He objected particularly to the construction of the Mwanza-Shinyanga line. He was strong enough to make this view prevail upon the Conference of Governors which resolved:

"That, in the interests of the East African territories generally, it is desirable to take all possible measures to avoid competition in railway and port development and in railway rates and port dues between British railway and port systems.

"That the suggested Mwanza-Shinyanga Railway would be competitive with the Kenya-Uganda Railway," and accordingly supported the view that "the Lake Victoria basin should, for the present, be served by one railway system only." [25]

Needless to say, the Government of Tanganyika dissented from this resolution on the ground that this branch was essential to the welfare of the most heavily populated areas of Tanganyika—a position which the Colonial Office supported.

Despite this dissent, Kenya's pressure had some effect in that it led Tanganyika, following the conference, to increase its railway rates so that the cost of transporting goods from the Mwanza area to the East Coast via the Uganda line became less expensive than via motor transport and the Central Railway to Dar-es-Salaam. Before the Conference of Governors, the transportation of cotton piece goods from Mombasa to Mwanza via rail and boat cost six hundred and fifty-one shillings a ton in comparison to five hundred and fourteen shillings a ton between Mwanza, Tabora, and Dar-es-Salaam. Following the conference, the Tanganyika Government increased the tariff on cotton transport to eight hundred and thirty-six shillings a ton.[26]

The effect of this increase was naturally to divert cotton trade from Tanganyika to Kenya merchants, which led to the protest of the Dar-es-Salaam Chamber of Commerce. The effect on the native was to increase the price of cotton goods for the benefit of the Uganda Railway. Although

[24] *Memorandum on Railway Development,* December, 1926, p. 2.
[25] *Summary of the Proceedings, Conference of Governors of the East African Dependencies,* p. 8.
[26] See the complaints, "The Railway Rates," *Tanganyika Times,* August 21, 1926.

the government justified these increases on the ground that the railway needed greater revenue, the conjunction of Kenya's demand for a transport monopoly and this act implied that one was the cause and the other the result.

Kenya has also exploited Uganda by means of the Uganda Railway which until recently has been completely under Kenya's control. While the railway is entirely within Kenya's territory, it was built for Uganda, as the name implies, and Uganda is dependent upon it for the export of its cotton. Nevertheless, Kenya appropriated the entire profits of the railway to meet a deficit in her budget for a number of years. At the same time, she granted cheap rates to European farmers in Kenya, which were offset by high rates on Uganda produce. This state of affairs was made the object of a protest by a commission in Uganda in 1920 which said:

"But the whole of the revenue accruing from the line is placed to the credit of the East Africa Protectorate [now Kenya] and is available for expenditure on general services. In 1913-14 the proceeds amounted to 49 per cent of the total revenue of the Protectorate, and in 1917-18 to 48 per cent. The rates at any time are high, but in 1918 a surcharge was imposed for the express purpose of raising additional funds wherewith to meet the increasing expenditure on departmental schedules, and this surcharge was continued in the following year. In 1919 a supercharge was imposed at a week's notice in addition to the surcharge, which entailed a further increase of 40 per cent on goods traffic between the Lake ports and the Coast. This supercharge was suspended after a few weeks in consequence of protests made to the Secretary of State for the Colonies.

"Both the surcharge and the supercharge constitute a direct tax on Uganda produce for the benefit of East Africa, but the fact remains that this Protectorate was not consulted prior to their introduction and that all representations to the Government of the East Africa Protectorate have been of no avail. As matters stand, East Africa has the power to exploit her neighbor indefinitely for her own interests, and there can be no commercial security until this intolerable burden is removed. Unless this is done, the recommendations which we shall make in the course of this report will be of little value. No real developments can take place so long as Uganda is deprived unjustly of the fruits of her labours." [27]

As a result of these complaints, an Order in Council was issued in 1925 transferring the control of the railway from the Kenya Government to a High Commissioner for Transport and a Railway Advisory Council. While the High Commissioner is the Governor of Kenya, the Council included two official and two unofficial representatives of each territory. The senior official member from Kenya is chairman. The revenue and

[27] *Report of the Uganda Development Commission*, 1920, p. 10.

expenditure of the railway and other transport services are now separated from general Kenya revenue and paid into a Railway and Harbor Fund.[28] As a result of this system, the railway has been removed from politics and Uganda given some control. Already railway rates on cotton have been lowered and large expenditures are being made on railway extension in Uganda. It is too soon, however, to determine the effectiveness of the reform.

These instances of the tariff, the King's African Rifles, and the Uganda Railway under which Tanganyika and Uganda have been obliged to pay the way of other territories illustrate the type of danger which might be increased should a federation of East Africa be established.

7. *Kenya's Missionary Spirit*

Moreover, Kenya has determined to propagate the policies of white settlement beyond her own boundaries throughout East Africa. She does this not only because of a missionary spirit, but also because of a belief that unless these policies are adopted throughout East Africa, white settlement in Kenya cannot survive. There is a fear, subconscious at least, that if the natives of Tanganyika and Uganda do not become subject to the same obligations and restrictions as the natives of Kenya, the comparison will become so invidious and apparent that the Kenya native, encouraged by his black neighbors, will eventually make the position of the Kenya settler untenable. The motto of the Delamere party is: "In union there is strength."

These sentiments have been frankly expressed by Lord Delamere, the leader in the White Settlement movement. At a St. Andrew's Day dinner at Nakuru, he declared: "We must give up thinking of Kenya as an isolated unit. We must believe that our safety as a civilized entity depends on the extension of our influence southward and that any wavering now in our attitude toward an inter-colonial policy may have the most disastrous effect on our own future."[29]

At the Tukuyu Conference of East African settlers, Lord Delamere said that the "time had arrived for settlers from the five territories to stand together.". . . . This would help the European settlers of Eastern Africa "to stand together to resist the pressure of the West Africa school." The policy of this school was now "predominant in Uganda" and was "beginning to infect Tanganyika Territory and Nyasaland. . . ." The government in England would be "more disposed to listen to the

[28] The Kenya and Uganda (Transport) Order in Council, 1925, *Statutory Rules and Orders*, 1925, p. 1681.
[29] *East African Standard*, December 5, 1925.

united voice of the settlers from the Zambesi to the Nile than to the separate voices of a number of isolated communities." [30]

A similar attitude was taken by the Kenya Governor, Sir Edward Grigg, who in the opening address to the Conference of East Africa Governors said: "We are deeply anxious that the policy of European settlement, which is established here [in Kenya] should not be an isolated policy or the European community in Kenya more divided than the natural conditions necessitate from European communities elsewhere. It is our hope, therefore, that European settlement may be encouraged in East Africa, wherever suitable highlands exist, and that where such highlands do not exist, the policy pursued may not be incompatible with ours." [31]

8. *The Tukuyu Conference*

In order to increase the weight of this sentiment, Lord Delamere and his followers brought together representatives of the European communities from the various East African territories in a conference which was held at Tukuyu in Tanganyika in October, 1925.[32] This conference passed a resolution that settlement should be encouraged in Tanganyika, Northern Nyasaland and the northern part of Northern Rhodesia—a policy which could be put into effect without "encroaching upon native interests."

Likewise, it resolved that the government should not encourage native agriculture in European areas because of the danger of disease, the fact that natives have neglected the growth of food stuffs when growing economic crops,[33] and the tendency of the men to become slothful by "leaving the cultivation of their crops to their women and children." Had the conference been as solicitous of native welfare as these reasons would indicate, they would not have limited their opposition to native agriculture

[30] *Proceedings and Resolutions, The Tukuyu Conference,* pp. 3, 12. He later said, to quote the Minutes, that "In Kenya they had fought for a long time to ensure that development should take place in consonance with the ideals of western civilisation and they were very much afraid of what was generally called the West Coast theory. The great objection to the West Coast theory was that those Europeans who were responsible for the welfare of the natives necessarily did their work in a semi-detached frame of mind. They had to leave the country when they retired and their mental horizon was bounded by the fact that the country in which their work lay must eventually cease to be their home. . . . In East Africa they had also men who looked upon the country as their permanent home and this was a very valuable asset for by a combination of men of a high standard who were disinterested with men who were personally interested and who understood the economic side of their work, they secured the best prospects for the future on the lines of the Roman occupation of Britain."

[31] *Summary of the Proceedings, Conference of Governors of the East African Dependencies,* p. 35.

[32] The "delegates" of Uganda were absent.

[33] For the truth of this assertion in Uganda, see Vol. I, p. 622.

for export in European areas, since the objections, if valid, applied in native areas as well. As a matter of fact, the recruiting of males for European plantations increases the burden upon the women and children left at home.[34] It appears that Europeans oppose native agriculture because it absorbs labor which otherwise would work for Europeans.

One delegate from Northern Rhodesia, more liberal than the others, expressed the opinion that the conference "should show an unselfish interest in the betterment of the native peoples and a sincere desire that justice should be accorded to them."[35] He therefore proposed that a fixed proportion of native taxation should be earmarked for native trust funds; but the general feeling of the conference was that the native already received "full value for his tax and in any case it" was "impossible to differentiate between services rendered to Europeans and natives." It further believed that, "If a portion of the native tax now absorbed by general revenue was diverted to a special fund, further taxation would evolve on non-natives to make up the deficiency."

A second unofficial conference for East Africa attended by practically all the unofficial members of the Legislative Councils of the territories concerned was held at Livingstone, the capital of Northern Rhodesia, in September, 1926.[36] It reindorsed many of the resolutions of the previous year, and also passed resolutions asking that the Kenya system of detention camps and native registration be adopted in the other territories.[37] It expressed the wish that the open door provisions of the convention of 1919 be revised so as to make possible the system of Imperial Preference, that moving picture films for exhibition to non-Europeans be censored, and that the protectorates of Northern Rhodesia, Nyasaland, and Kenya[38] be annexed.

The influence of these unofficial conferences—the last of which decided to establish a secretariat at Nairobi—was probably greater than their author had imagined it would be. For at the Conference of East African Governors in 1926, a number of resolutions were adopted officially recognizing and adopting some of the Tukuyu resolutions, the most notable one of which favored white settlement in all of the territories of East Africa.[39]

Likewise the Governors' Conference accepted a resolution that the growing of Arabica coffee by natives "should certainly be discouraged and possibly prohibited." While the Governor of Tanganyika would not

[34] Cf. Vol. I, p. 396.
[35] *Proceedings and Resolutions, The Tukuyu Conference,* p. 18.
[36] Its resolutions are printed in the *East African Standard* for October 16, 1926
[37] Cf. Vol. I, p. 357.
[38] A reference to the ten-mile strip.
[39] *Summary of the Proceedings, Conference of Governors of the East African Dependencies,* 1926, p. 17.

endorse this resolution, he took the modified position that its growth in European areas "should not be encouraged." [40]

The most important resolutions of all dealt with the land and labor policy, in which the Governors from all the territories with the exception of Tanganyika declared in favor of the policy of native reserves, and in which the Governors unanimously agreed that every able-bodied native should be "given to understand that the Government expects him to do a reasonable amount of work, either in production in his own reserve or in labor for wages outside it. . . . In areas where the first alternative is not within his reach, the native should be definitely encouraged to go out to labour." [41]

While the Governors emphasize the right of the native to his land, even though they do not adequately safeguard this right, they virtually state that the European employer, in those cases where the absence of transport makes native production unprofitable, is entitled to receive native labor. This sanction of what will amount in some cases to compulsory labor for private purposes is being watched with intense interest by the Portuguese, the Belgians, and the French, some of whom search British policy with a microscopic minuteness for precedents which will justify them in applying rigorously and universally a principle which may be more gently applied in British territory.

Since the conditions in Kenya and Tanganyika approximate each other, the Governors of these two territories agreed that they should consult together before issuing any special instructions on land and labor policy to their administrative officers. While this may give Kenya some direct influence upon Tanganyika policy, it may at the same time place Kenya's policy under the scrutiny of the Mandates Commission of the League of Nations.

9. *Encircling Tanganyika*

Thus as a result of the pressure of the White Settlement school, whose headquarters are in Kenya, the five territories of East Africa have pledged themselves to the principle of white settlement, where such a policy does not encroach upon native interests. It is evident to anyone who reads the proceedings that the Kenya school at the Governors' Conference constantly attempted—and in some cases with success—to force the Tanganyika Government into a position which it did not wish to take. It did not, however, altogether succumb, for it made reservations in regard to the construction of the Mwanza railway, the policy of reserves, and the growing of Arabica coffee. These reservations in themselves indicate the pressure to

[40] Cf. Vol. I, p. 493.
[41] The full text of this pronouncement is printed in an appendix, Vol. I, p. 550.

which it was subjected—a pressure which would be increased in a federation and which may overwhelm some future governor having less stamina than Sir Donald Cameron.[42]

Notwithstanding their adhesion to the principle of white settlement and an indirect form of compulsory labor in some cases for private purposes, the Governors of East Africa nevertheless did subscribe to what is called the policy of "dual development." [43] This policy was defined in June, 1926, by Mr. Amery, Secretary of State for the Colonies, as "a policy which recognises our trusteeship both to the native population—whom we had found on the spot and whom it was our duty to bring forward and develop in every possible way—but also our trusteeship to humanity at large for the fullest development of those territories, and towards those in particular of our own race who had undertaken the task of helping forward that development." [44]

In laying down this principle of dual development, the British Colonial Office apparently believes it is giving birth to a new idea which will solve the racial problems of the world. But as a matter of fact, the principle is not new. Blanket indorsements of the rights of the native were made in the early constitutions of the South African territories and in the constitution of the Chartered Company in Rhodesia; and they were embodied in the Certificates of Claim in Nyasaland, in the East Africa Land Regulations in 1897, and in the German East Africa Land Law of 1895.[45] But these declarations have been scarcely worth the paper they were written upon because no machinery for guaranteeing these rights was erected at the time the declarations were made. Nor it is probable that any machinery could have been effective in the face of the efforts of white governments to promote white settlement. Wherever this principle has been admitted in British Africa, the native has been deprived of land which he has regarded as his own, and because of a land shortage created in these various territories (except in Southern Rhodesia) he has been obliged to work for the European employer.

The introduction of white settlement into British Africa, regardless of the territory, has created the same problems and the same type of restrictions: the establishment of native reserves which encroach upon what the natives believe to be their land, and which sooner or later become inadequate for native needs; squatter legislation imposing severe

[42] Nevertheless the Tanganyika Government following the conference not only modified its railway rates but discouraged native coffee production in the Arusha district. Cf. Vol. I, pp. 493, 520.

[43] Cf. Vol. I, p. 379.

[44] *The* [London] *Times*, June 12, 1926, p. 13.

[45] Cf. Vol. I, pp. 245, 299, 486.

restrictions upon the freedom of native residents on European farms; the reduction of a large proportion of the male population to the position of migratory wage-earners living under unnatural and in many cases unhealthy conditions; a chronic labor shortage which leads the European farmers to demand compulsion; the disintegration of home and tribal life; the penal sanction in labor contracts, making desertion a criminal offense and strikes illegal; pass and registration laws which restrict native movements. On the other hand, white settlement in Africa has led to: a class of European landlords who are not the pioneers who made the American West but rather the type of Virginia gentlemen who dominated the cultural and economic life of the South before the American Civil War; large areas of European land undeveloped for want of labor which natives are not allowed to use, but out of which speculative fortunes may be made; military conscription of the whites so as to defend themselves against the blacks; the increase of inter-racial crime; miscegenation; and the creation of a poor white class. All of these conditions exist to a greater or less extent in South Africa, Southern Rhodesia, and Kenya. As long as European enterprise in East Africa is confined to agricultural estates, it is improbable that conditions will develop there as detrimental to native welfare as have developed in South Africa where mining has been the leading industry. But it is probable that mines will be discovered, particularly in Tanganyika, when the same drain upon the native community will be imposed as in South Africa. We have demonstrated that it is only a matter of a few years before the Kenya native will suffer from the same land shortage as does the South Africa native; and we have seen that the white community there has already imposed even more severe restrictions upon the native than have been imposed in South Africa. The mere preservation of the rights of the native in the land—a principle accepted by the East Africa Governors—will not prevent the growth of the above by-products of an inter-racial community, in which a dominant minority is obliged to depend for its existence upon primitive labor.

10. *The "Contact" Theory*

Despite these consequences, three main arguments have been made in favor of white settlement in East Africa. The first is that the native will benefit from "contact" with the white man, particularly with the Englishman, and that by imitation the native will absorb the virtues of western civilization much more quickly than if the white population were restricted to a few officials and missionaries. In other words, the native is "better off" working on a white man's farm than working in the reserve. Sir Edward Grigg, the Governor of Kenya, recently stated

that the "best school for the African is a good European estate." [46] The Kenya Economic Commission believed so strongly in the benefits of this association that it asked that European farms be planted in the midst of native reserves.[47]

Carried to its logical conclusion, the education argument in favor of white settlement would mean that eventually the native, having learned the devices of the European settler, would work for himself, and the settler, if he did not choose to furnish his own labor, would be obliged to withdraw—an argument which weakens the whole doctrine of white settlement, whose leading principle is permanency.

The American negro is the most successful example of the assimilation of western civilization by an alien group implanted in a white community. The American negroes, however, have been a small minority of the total population, permanently severed from the environment in which they originated. There is, moreover, some reason to believe that the American negro is still linked to a distant past which he cannot see but for which he blindly gropes.[48]

In East Africa the native population, instead of being a minority in the white community, outnumbers it 584 to 1.[49] While this ratio may decline with increased settlement, the most fervent supporter of the Delamere school does not believe that the whites in East Africa can ever hope to overcome the numerical superiority of the blacks. Instead of being permanently under the more or less intimate influence of a European employer as was the American negro in the days of slavery, East African natives work for a few months upon a European estate, usually under the direction of a native headman, and then return to their tribal homes. During the course of their employment, the European master addresses them, when he addresses them at all, in a butchered Swahili which can hardly be said to have cultural value. A squatter's family may receive more education and a greater amount of attention than a transient laborer who leaves his family at home. But those families permanently influenced by Europeans are mere specks upon a sea of blackness. The elevation of the black man in Africa will not come by the "contact" theory which, after all, is a mere adaptation of the French theory of assimilation. It will come by the development, and not the destruction, of the native group. The policy

[46] Address to the Convention of Associations, *East African Standard, Supplement,* October 30, 1926.

[47] It used the argument of Dr. C. T. Loram against segregation in his book on *The Education of the South African Native* as an argument against native reserves. *Economic Commission, Final Report,* Part I, 1919, pp. 18-21.

[48] Cf. the description of Harlem (the negro district of New York) in Carl Van Vechten's *Nigger Heaven.*

[49] In Kenya, the ratio is about 233 to 1.

of assimilation the French are themselves discarding; and it is difficult to believe that the racially intolerant Englishman can succeed where the racially tolerant Frenchman has failed. The experiments of Europeanizing the natives of Freetown, the Gold Coast, and of Lagos have not, as we shall see, been encouraging.[50]

If the contact theory were valid, the negroes of South Africa who have lived in close proximity to a white population of a million and a half people should be far superior to the natives of West Africa. But while the South African native may have a better knowledge of the English language than his brother farther north, the negro of Central and West Africa appears to the visitor to be far ahead in matters of industrial, commercial, and agricultural knowledge. One does not meet in South Africa the trained medical dispensers, the mechanics, or the traders that he meets farther north. With all its faults, the negro governing class in Liberia, a country from which European influence has been excluded to a greater extent than any other place in Africa, appears to be the most intelligent and able class of negro on the entire continent—simply because it has had a job to do.[51]

There is good reason to believe that the negroes of West Africa and of Uganda will eventually go further in cultural and material progress than the negroes of South Africa and of the United States, blessed though they may be by contact with Europeans. The history of these two countries shows that whatever benefits the white race may have conferred upon the blacks have been more than outweighed by the disabilities which the whites have imposed. Channels of advancement open to natives in those parts of Africa following the native state policy are closed to the South African negro, just as channels of political and social advancement are closed to the American negro. In a community in which an advanced and a primitive race live side by side, the dominant race has always tended to suppress the development of the primitive race out of fear that its economic or cultural existence would be destroyed.

Those who attempt to justify the white settlement of East Africa on the ground of the benefits derived by the native from "contact" with whites are liable to commit the sin of hypocrisy. The average settler in East Africa was, until the talk about trusteeship arose in Europe, quite frank to admit that his chief interest in coming to Africa was in making a living and not in uplifting the African. The Kenya settlers, nevertheless, in the Indian crisis several years ago, believed they could strengthen their position by resorting to the humanitarian argument when they drew up a petition to the King stating that they were fully convinced that "Your

[50] Cf. Vol. I, pp. 661, 833, 842, 882.

[51] Cf. Vol. III, Chap. 93.

Majesty, as Defender of the Faith, no empty title, must view with peculiar concern the possibility that the flower of Christian Faith, so recently planted in Eastern Africa, may be choked by the quick growth of other Eastern Religions." A Kenya leader also declared that Western civilization, no matter what errors it had made, stood "for Christianity, open and above-board dealings. . . ." What was there to put against this on the other side of the ledger? "The corrupt, cheating, hidden ways of the semi-civilization of the East." Thus in order to save the native, the European must keep out the Indian.

It is perhaps of some significance that Kenya is the only place in Africa where it is orthodox to say that the native is better off working for Europeans than for himself.

Instead of unconsciously transmitting European virtues to the natives, there is a grave danger that a European minority which attempts to establish a permanent cultural existence in the tropics will accept native standards. Association with an overwhelming majority of blacks together with the nervous strain produced by the closeness of the sun and excessive altitude produce a distinctly unsettling influence upon a European population not subject to the special responsibilities which weigh upon missionaries and officials. The effect of this influence upon some of the settlers in Kenya—marked particularly by enormous drink bills—has been noticed by many visitors. Moreover, a child born and raised in the Highlands of the tropics is thrown into intimate contact with native servants for a dozen or so years. Unless carefully watched, it acquires in such surroundings a "bossy" attitude and an unhealthy conceit, while it is in danger of absorbing some of the principles of the native sexual code. The education of Europeans is also a problem. Kenya is now making strenuous efforts in this direction; but the Director of Education has pointed out how difficult this problem is.[52]

Having examined the "humanitarian" argument for White Settlement, we shall now turn to less idealistic considerations.

11. *Economic Gains of White Settlement*

The second argument which is officially advanced for white settlement is economic in character. Spokesmen of the school point to the fact that while East Africa has an area as large as India, it has a population of only twelve million, in comparison with the three hundred million supported by Indian soil. The inference is that the native population of East Africa is too sparse to develop these resources and that therefore white settlement is necessary if this part of the world is to be developed for European

[52] Cf. Index—Poor Whites.

needs. If the white farmers of East Africa would furnish their own labor supply, this argument might have some weight. But all of them depend upon native labor. Increased white settlement therefore means that natives now engaged or who might become engaged in native agriculture will be diverted into European employment, in many cases against their consent, and will receive wages much below the returns they would receive working for themselves.

To justify white settlement under these circumstances, supporters of the policy must take the position that a native is more productive working for a European overseer than working for himself, which is exactly the same argument made in favor of the system of European plantations instead of native small farmers in West Africa. This question is examined in greater detail elsewhere.[53] It will be approached here from another angle, by comparing the productivity of the colony of Kenya, a white settlement territory, with that of Uganda, a native state, and that of Tanganyika, where native production still predominates. This productivity will be judged first by a comparison of costs of administration, and second by a comparison of trade.

Table I, printed on the next page, shows that the cost per hundred inhabitants of general administration and of police and prisons in Kenya is about twice that of Uganda or Tanganyika. Military expenditures per hundred inhabitants also exceed those in the other territories. These figures would tend to show, therefore, that the administration of an interracial community requires a much greater outlay than the administration of a native community. Much of this cost is due to personnel, since a white settlement colony must maintain a closer control over natives than a native territory, and since European needs occupy much of the time of administrators.

This conclusion is emphasized by the financial condition of these territories which is shown in Table II below.

Throughout its history, Kenya has received free grants-in-aid from the home government which have been larger than those received by Uganda, and it has contracted loans more than seven times as great. While in Uganda, loan charges now constitute 4.5 per cent of the revenue, in Kenya they constitute 22.3 per cent.

Productivity as determined by trade is shown by Table III below.

From the standpoint of imports, Kenya stands three times as high as Uganda. This superiority is due largely to the demands of the European community. From this standpoint, it is probably correct to say that the

[53] Cf. Vol. I, p. 771.

I

Comparison of General Administrative, Police, and Military Expenditures in Kenya, Uganda, and Tanganyika in 1926

Description	Kenya			Uganda			Tanganyika		
	Amount £	Per 100 inhabitants £	Percentage of total expenditures [1]	Amount £	Per 100 inhabitants £	Percentage of total expenditures [1]	Amount £	Per 100 inhabitants £	Percentage of total expenditures [1]
General Administration	1,186,513	45.5	49.7	694,071	22.1	53.5	927,031	22.5	63.0
Police and Prisons	173,955	6.7	7.3	87,106	2.8	6.7	130,163	3.2	8.9
Military	128,740	4.9	5.4	75,775	2.4	5.8	153,339	3.7	10.4
Total Revenue	2,315,808	88.8		1,306,761	41.5		1,542,700	37.5	
Total Expenditures	2,386,666	91.5		1,298,941	41.3		1,468,584	35.6	

Source: 1926 and 1926-27 Estimates.

[1] Total expenditures mean ordinary expenditures exclusive of railways.

II

INDEBTEDNESS—EAST AFRICA—1926.

Public Debt	Uganda		Kenya		Tanganyika	
	Amount £	Per Hundred (Based on population of 3,145,449)	Amount £	Per Hundred (Based on population of 2,606,509)	Amount £	Per Hundred (Based on population of 4,123,493)
	(1926)	£	(1926-7)	£	(1926)	
Loans	(a) 1,174,000	37.3	(c) 8,500,000	326.0	(g) 3,085,891	74.9
Interest	58,864	01.9	(d) 450,000	17.2	(h) 31,718	00.8
Sinking-Funds	included in interest	81.0	(e) 65,000	02.5	.....	....
Free Grants-in-Aid	(b) 2,548,512	....	(f) 2,943,383	113.1	408,109	09.9
Ratio of Interest to Revenue..	4.5		22.3		2.5	

(a) Of this amount £290,521 has been used for railways.
(b) From 1893-1914. None since.
(c) Of this amount £3,500,000 is interest free for 5 years from 1924. Of the total loans £1,019,443 has been used for the Uganda Railway.
(d) Of this interest, £250,131 is paid by the Uganda Railway.
(e) Of this sinking fund £55,278 is paid by the Uganda Railway.
(f) 1896-1913. None since.
(g) Of this amount £962,182 has been used by the railways.
(h) This interest is paid by the Railway.

III

TRADE—EAST AFRICA—1925.

Trade	Uganda		Kenya		Tanganyika	
	Amount £	Per Hundred	Amount £	Per Hundred	Amount £	Per Hundred
	Year (1925)		Year (1925)		Year (1925)	
Commercial Imports	2,677,764	85.1	5,383,684	206.7	2,442,937	59.3
Government Imports	110,601	03.5	2,108,568 [1]	81.0	420,980	10.2
Total Imports	2,788,365	88.6	7,492,252	287.7	2,863,917	69.5
Total Exports	5,097,215	161.9	2,724,629	104.6	3,007,879	72.9
Balance	Exp. 2,308,850	73.3	Imp. 4,767,623	182.9	Exp. 143,962	03.4

[1] Includes specie.

white settlement of the tropics will immediately give Europe a better market than will the natives living by themselves. Nevertheless, the purchasing power of a native wage-earner is much less than that of a native farmer. With the gradual progress of education, bringing with it an improved standard of living, the actual consumption of territories where native agriculture predominates will probably be greater than in territories dominated by native wage-earners. The importance of this consideration is coming to be realized in South Africa.[54]

The argument in favor of white settlement does not rest, however, upon the need of Europe for markets. The official justification of this policy is that white settlement is necessary to the development of the latent resources of the territory. The value of this argument can be judged by a comparison of exports. The exports of Uganda, almost wholly the product of native farmers, were, in 1925, nearly twice Kenya exports. The per capita exports of Uganda were 1.619 pounds, while the per capita exports of Kenya were 1.046 pounds.

In 1925, Kenya had an unfavorable balance of trade (excluding government imports) of 2,659,055 pounds, a figure nearly equalling exports, while Uganda had a favorable balance of 2,198,249 pounds. The exports of Tanganyika of 3,007,879 pounds are already greater than the exports of Kenya. While per capita exports (.729 pounds) are still less than those of Kenya, it will probably be only a matter of a few years before this difference is overcome. Tanganyika, it should be remembered, was virtually derelict for four years during the War, and is only now being restored.

To determine the actual value of a colony as a going concern, one must take into consideration not only the amount of produce exported but the amount of wealth consumed in administering the local government. From this standpoint, government expenditures in relation to exports in the three territories are as follows:

Ratios between Government Expenditures and Exports in East Africa

Territory	Ratio of Government expenditures to exports %
Uganda	25.5
Tanganyika	49.0
Kenya	87.5

[54] Cf. Vol. I, p. 65.

The conclusion to be deduced from these figures is that Kenya is the least productive of the three territories. But these conclusions must be regarded as tentative, inasmuch as the past prosperity of Uganda has depended upon the cotton crop which in the future may be destroyed. On the other hand, similar factors may operate to hinder the development of Kenya, which appears to have reached its limit because of the shortage of labor. If the comparison had been made five years ago, Kenya would have shown up in a much worse position than it does to-day. The debt charges of Kenya will increase greatly in the future.[55] Whatever the position in the future may be, there is no evidence so far supporting the contention that the white settlement system in the tropics is more productive than native enterprise.

Nevertheless, the fact remains that under the white settlement policy, a relatively small number of European settlers may garner profits which under the native state policy go to native producers, and that they may derive gains from the speculative rise in land values which would not take place to so great an extent under a native system of production and of land tenure. Thus, while a few Europeans will obtain a larger share in the *distribution* of wealth, the total net *production* under the system of white settlement will probably be less than in a native state.

This conclusion does not take into consideration the loss of trade which accompanies the political troubles which sooner or later occur in an inter-racial community. Inevitably the black man in Africa will grow in strength and in racial self-consciousness as have the brown man in India and the yellow man in China. He will demand a country of his own. In a native state, European control may gradually be relinquished in proportion as the natives are able to stand upon their own feet. In a white settlement territory the European resident will have no intention of relinquishing his control. Consequently, a racial struggle is much more likely to occur and to be more determined in a white settlement colony than in a protectorate.

12. *Climate*

The third argument advanced in favor of white settlement is the climate. It is asserted that the British Government is justified in following a different native policy in East Africa than in West Africa, on the ground that a white man and his family can comfortably live in East Africa with a degree of permanence approaching that of residence in Canada or South Africa. There are those, however, who do not agree

[55] Cf. Vol. I, p. 407.

wholly with this assumption. While the climate may be equable, the altitude and the nearness of the sun create a nervous tension which is noticeable in many residents and which leads Europeans from the East Coast to return to England on leave almost as regularly as do Europeans from the West Coast. One Rhodesia physician asserts that miscarriages among white women are more common, and that the birth rate is lower in Rhodesia than in England because of the climate.[56]

On the other hand, the view has been advanced that the question as to whether the white man may settle in the tropics does not depend upon the factor of climate but upon the elimination of disease, which has been and can be brought about, as in the case of the elimination of yellow fever from the Panama Canal Zone. Professor J. W. Gregory says that the contention that the tropics are unsuitable for the white man "overlooks the automatic process by which the living body adjusts itself to temperatures even higher than occur in any climate on earth, and that would quickly cook it, if dead." In his opinion, any deleterious effects of the rays of the sun may be avoided by the use of appropriate clothes.[57] In 1914, the Australian Medical Congress appointed a sub-committee to investigate "the possibility of the permanent occupation of Tropical Australia by a healthy, indigenous white race." After inquiring into medical, military and insurance records, the committee reported (in 1920) that it could find no "inherent or insuperable obstacles" in the way of this occupation. It considered that the "whole question of successful development and settlement of Tropical Australia is fundamentally a question of applied public health in the modern sense." [58]

In an exhaustive study entitled "The White Man in the Tropics," [59] Dr. R. W. Cilento of the Government Public Health Department gives the results of his examination of the second and third generations of the white men who have lived and labored in northern Queensland, which has a tropical climate. His tentative conclusion is that evidence is accumulating that "the white man may rise, and indeed is rising, superior to his environment, and will ultimately produce a type as suited to the tropics as he has

[56] Dr. W. M. Hewetson, *Environmental Influences Affecting Blondes in Rhodesia and their Bearing on the Future,* Salisbury, 1922.

[57] Professor J. W. Gregory, "Inter-racial Problems and White Colonization in the Tropics," Presidential Address delivered to the Geographical Section (E) at the Toronto Meeting of the British Association for the Advancement of Science, 1924.

[58] Report printed in the *Medical Journal of Australia,* September 18, 1920, p. 292.

[59] Service Publication (Tropical Division) No. 7, Commonwealth of Australia, Department of Health, 1925.

previously produced one suited to the latitudes in which he has for many centuries been resident." [60]

The extent to which French and Belgian families are taking up their residence in West and in Central Africa would confirm these conclusions. Western science has conquered tropical disease to such an extent that it is now just as possible for Europeans to direct the economic enterprises upon the West Coast of Africa as in the Highlands of Kenya or Tanganyika. If, therefore, white settlement in East Africa can be justified on the ground of climate, which, after all, is a physical, and not an ethical argument, the introduction of the system into Western Africa may also be justified. Hence a victory for the White Settlement school would greatly strengthen the position of the plantation school on the West Coast.[61] The connection has already been realized by the native papers on the Gold Coast.[62]

Whatever the merits of the two systems may be, the fact remains that Tanganyika is pledged under the Treaty of Versailles and under a Mandate held from the League of Nations to advance the social progress of her native inhabitants. She is specifically pledged to respect native interests in the land and she is forbidden to resort to compulsory labor except for essential public services. For the fulfilment of such obligations, the British Colonial Office is ordinarily responsible only to Parliament. The

[60] His examination "proves conclusively that there is no appreciable difference in the mental and physical development of the children born within the tropics," and the children born in temperate zones who later removed to the tropics. "There is apparently no sign of mental deterioration in the school children. At all ages, children of the second generation are as far advanced in their classes as the immigrants. . . . The further statement that while women may commonly live for short periods in the tropics without suffering permanent harm, yet they cannot bear healthy children there, and that, moreover, their fertility is lessened, is entirely disproved by the figures obtained. Not only are the women of the tropics as fertile as immigrant stocks, but, allowing for the advantage in the ages in the figures shown, they are more so." *Ibid.*, pp. 87 ff.

[61] Cf. Vol. I, p. 767, Vol. II, p. 23.

[62] Mr. Ormsby-Gore, the Under-Secretary of State for Colonies, upon his return from West Africa declared: "Any attempt to apply a policy suitable to East African development in West Africa would fail, just as any attempt to apply West African policy to East Africa would be equally undesirable. The main contrast between those two territories is climatic." Quoted *African World Supplement,* June 5, 1926, p. ix. Commenting on this and similar remarks, the *Gold Coast Leader,* edited by an African, said: "But for the accident of climatic difference Mr. Ormsby-Gore would be disposed to advocate the application of the East African policy to West Africa, namely, the plantation system. . . ." *Gold Coast Leader,* July 8, 1926, p. 6.

It later declared: "We had always been told that British policy was based upon a sense of right, justice and fair play. . . . It is something quite new for us to learn that British policy has been entirely guided by climatic conditions. In other words, that, if the conditions were favourable, the authorities at Downing Street could not resist the temptation of casting an envious eye upon Naboth's vineyard." *Ibid.,* August 7, 1926, p. 6.

Colonial Office knows that no parliament will vote a ministry out of office upon a colonial issue. Consequently, it is much easier for it to give in to an interested minority on the spot than to disinterested sentiment in England. The supervision of British obligations in Tanganyika rests, however, with another body—the Mandates Commission of the League of Nations. Unlike a parliament with its multitudinous activities, this body has one job—to see to it that the provisions of the Mandates are enforced. A Colonial Office debate in the British House of Commons seldom gets into a foreign newspaper, but when the Mandates Commission speaks, it speaks with a united voice upon a single issue, and from a forum which may extend not only to England, but around the world.[63] This "functional" type of control promises to be much more effective in enforcing the obligations of trusteeship than parliamentary control. The future of East Africa may, therefore, rest on the lap of the Mandates Commission.

[63] Cf. the discussion of the Commission in regard to the Bondelzwarts Rebellion, and to Syria.

APPENDICES—TANGANYIKA TERRITORY

IX. Trade of the German Colonies, 1912
X. German Colonial Loans, 1908-1920
XI. Article 22. Covenant of the League of Nations
XII. British Mandate for East Africa
XIII. Land and Labor Resolutions, Conference of Governors of the East Africa Dependencies
XIV. Agriculture and Labor—Instructions of the Tanganyika Government

APPENDIX IX

TRADE OF THE GERMAN COLONIES—MARKS

1912

Territory	Imports	Exports	Total
German East Africa	50,309,164M	31,418,382M	81,727,546M
Cameroons	34,241,582	23,336,212	57,577,794
Togo	11,427,831	9,958,903	21,386,734
German Southwest Africa	32,498,899	39,035,340	71,534,239
African territories	128,477,476	103,748,837	232,226,313
German New Guinea	9,207,059	12,086,806	21,293,865
Samoa	4,994,401	5,044,485	10,038,886
TOTAL	142,678,936	120,880,128	263,559,064

From *Die deutschen Schutzgebiete in Afrika und der Südsee*, 1912/13, Statistical Part, p. 121.

APPENDIX X

GERMAN COLONIAL LOANS 1908-1920 *

	East Africa Marks	Cameroons Marks	Togo Marks	Southwest Africa Marks	Total Marks
(a) Floated Bonds	159,266,400	41,937,500	11,610,400	37,160,700	249,975,000 [1]
(b) Debt after deduction of amortization, April 1, 1920	156,464,200	41,301,200	11,199,400	36,742,600	245,707,400
(c) Proceeds of Floated Loan amount to:	155,874,629.58	41,626,156.66	11,725,981.67	36,369,738.63	245,596,506.54
(d) Proceeds spent as follows:					
1. Railways and Harbors	18,806,965.76	33,318,961.84	10,809,121.16	30,619,738.63	93,554,787.39
2. Participations and Loans to Railway Companies	133,699,266.93	.....	.....	.....	133,699,266.93
3. Roads and Sanitation	1,564,936.50	2,432,096.02	478,525.28	.....	4,475,557.80
4. Loan	653,373.03	.....	.....	5,750,000	6,403,373.03
5. Extraordinary Amortization of Loan Debt	.....	.....	28,481.67	.....	28,481.67
6. Remaining proceeds to cover railway construction not yet known	1,150,087.36	5,875,098.80	409,853.56	.....	7,435,039.72
Total	155,874,629.58	41,626,156.66	11,725,981.67	36,369,738.63	245,596,506.54

* No loans were contracted for New Guinea and Samoa.

[1] The amount of 245,596,506.54 forms the proceeds of the Colonial Loan, while for the calculation of "money expenses of the Empire for the Protectorates" the nominal amount of the floated bonds, i.e., 249,975,000 M is to be put into account.

Compiled according to the files of the German Ministry for Reconstruction, Colonial Central Administration, Berlin.

APPENDIX XI

Article 22. Covenant of the League of Nations

1. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

2. The best method of giving practical effect to this principle is that the tutelage of such peoples should be intrusted to advanced nations who, by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

3. The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

4. Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

5. Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defense of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

6. There are territories, such as Southwest Africa and certain of the South Pacific islands, which, owing to the sparseness of their population or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

7. In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

8. The degree of authority, control or administration to be exercised by the

Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

9. A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories, and to advise the Council on all matters relating to the observance of the mandates.

APPENDIX XII

British Mandate for East Africa

The Council of the League of Nations:

Whereas by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28th, 1919, Germany renounced in favour of the Principal Allied and Associated Powers all her rights over her oversea possessions, including therein German East Africa; and

Whereas, in accordance with the treaty of June 11th, 1891, between Her Britannic Majesty and His Majesty the King of Portugal, the River Rovuma is recognised as forming the northern boundary of the Portuguese possessions in East Africa from its mouth up to the confluence of the River M'Sinje; and

Whereas the Principal Allied and Associated Powers agreed that, in accordance with Article 22, Part I (Covenant of the League of Nations), of the said treaty, a mandate should be conferred upon His Britannic Majesty to administer part of the former colony of German East Africa, and have proposed that the mandate should be formulated in the following terms; and

Whereas His Britannic Majesty has agreed to accept the mandate in respect to the said territory, and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions; and

Whereas by the afore-mentioned Article 22, paragraph 8, it is provided that the degree of authority, control or administration to be exercised by the Mandatory, not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations;

Confirming the said mandate, defines its terms as follows:

Article 1.

The territory over which a mandate is conferred upon His Britannic Majesty (hereinafter called the Mandatory) comprises that part of the territory of the former colony of German East Africa situated to the east of the following line:

From the point where the frontier between the Uganda Protectorate and German East Africa cuts the River Mavumba, a straight line in a south-easterly direction to point 1640, about 15 kilometres south-south-west of Mount Gabiro;

Thence a straight line in a southerly direction to the north shore of Lake

Mohazi, where it terminates at the confluence of a river situated about 2½ kilometres west of the confluence of the River Msilala;

If the trace of the railway on the west of the River Kagera between Bugufi and Uganda approaches within 16 kilometres of the line defined above, the boundary will be carried to the west, following a minimum distance of 16 kilometres from the trace, without, however, passing to the west of the straight line joining the terminal point on Lake Mohazi and the top of Mount Kivisa, point 2100, situated on the Uganda-German East Africa frontier about 5 kilometres south-west of the point where the River Mavumba cuts this frontier;

Thence a line south-eastwards to meet the southern shore of Lake Mohazi;

Thence the watershed between the Taruka and the Mkarange and continuing southwards to the north-eastern end of Lake Mugesera;

Thence the median line of this lake and continuing southwards across Lake Ssake to meet the Kagera;

Thence the course of the Kagera downstream to meet the western boundary of Bugufi;

Thence this boundary to its junction with the eastern boundary of Urundi;

Thence the eastern and southern boundary of Urundi to Lake Tanganyika.

The line described above is shown on the attached British 1:1,000,000 map, G.S.G.S. 2932, sheet Ruanda and Urundi. The boundaries of Bugufi and Urundi are drawn as shown in the Deutscher Kolonialatlas (Dietrich-Reimer), scale 1:1,000,000, dated 1906.

Article 2.

Boundary Commissioners shall be appointed by His Britannic Majesty and His Majesty the King of the Belgians to trace on the spot the line described in Article 1 above.

In case any dispute should arise in connection with the work of these commissioners, the question shall be referred to the Council of the League of Nations, whose decision shall be final.

The final report by the Boundary Commission shall give the precise description of this boundary as actually demarcated on the ground; the necessary maps shall be annexed thereto and signed by the commissioners. The report, with its annexes, shall be made in triplicate; one copy shall be deposited in the archives of the League of Nations, one shall be kept by the Government of His Majesty the King of the Belgians and one by the Government of His Britannic Majesty.

Article 3.

The Mandatory shall be responsible for the peace, order and good government of the territory, and shall undertake to promote to the utmost the material and moral well-being and the social progress of its inhabitants. The Mandatory shall have full powers of legislation and administration.

Article 4.

The Mandatory shall not establish any military or naval bases, nor erect any fortifications, nor organise any native military force in the territory except for local police purposes and for the defence of the territory.

Article 5.

The Mandatory:

(1) shall provide for the eventual emancipation of all slaves and for as speedy an elimination of domestic and other slavery as social conditions will allow:

(2) shall suppress all forms of slave trade;

(3) shall prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in return for adequate remuneration;

(4) shall protect the natives from abuse and measures of fraud and force by the careful supervision of labor contracts and the recruiting of labour;

(5) shall exercise a strict control over the traffic in arms and ammunition and the sale of spirituous liquors.

Article 6.

In the framing of laws relating to the holding or transfer of land, the Mandatory shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favour of non-natives may be created except with the same consent.

The Mandatory will promulgate strict regulations against usury.

Article 7.

The Mandatory shall secure to all nationals of States Members of the League of Nations the same rights as are enjoyed in the territory by his own nationals in respect of entry into and residence in the territory, the protection afforded to their person and property, the acquisition of property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with the local law.

Further, the Mandatory shall ensure to all nationals of States Members of the League of Nations, on the same footing as to his own nationals, freedom of transit and navigation, and complete economic, commercial and industrial equality; provided that the Mandatory shall be free to organise essential public works and services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all States Members of the League of

Nations, but on such conditions as will maintain intact the authority of the local Government.

Concessions having the character of a general monopoly shall not be granted. This provision does not affect the right of the Mandatory to create monopolies of a purely fiscal character in the interest of the territory under mandate, and in order to provide the territory with fiscal resources which seem best suited to the local requirements; or, in certain cases, to carry out the development of natural resources either directly by the State or by a controlled agency, provided that there shall result therefrom no monopoly of the natural resources for the benefit of the Mandatory or his nationals, directly or indirectly, nor any preferential advantage which shall be inconsistent with the economic, commercial and industrial equality hereinbefore guaranteed.

The rights conferred by this article extend equally to companies and associations organised in accordance with the law of any of the Members of the League of Nations, subject only to the requirements of public order, and on condition of compliance with the local law.

Article 8.

The Mandatory shall ensure in the territory complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality; missionaries who are nationals of States Members of the League of Nations shall be free to enter the territory and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools throughout the territory; it being understood, however, that the Mandatory shall have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required by such control.

Article 9.

The Mandatory shall apply to the territory any general international conventions already existing, or which may be concluded hereafter, with the approval of the League of Nations, respecting the slave trade, the traffic in arms and ammunition, the liquor traffic, and the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation, railways, postal, telegraphic, and wireless communication, and industrial, literary and artistic property.

The Mandatory shall co-operate in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

Article 10.

The Mandatory shall be authorised to constitute the territory into a customs, fiscal and administrative union or federation with the adjacent terri-

tories under his own sovereignty or control; provided always that the measures adopted to that end do not infringe the provisions of this mandate.

Article 11.

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information concerning the measures taken to apply the provisions of this mandate.

A copy of all laws and regulations made in the course of the year and affecting property, commerce, navigation or the moral and material well-being of the natives shall be annexed to this report.

Article 12.

The consent of the Council of the League of Nations is required for any modification of the terms of this mandate.

Article 13.

The Mandatory agrees that if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

States Members of the League of Nations may likewise bring any claims on behalf of their nationals for infractions of their rights under this mandate before the said Court for decision.

The present instrument shall be deposited in original in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Members of the League.

Done at London, the twentieth day of July one thousand nine hundred and twenty-two.

Certified true copy:

SECRETARY-GENERAL.

APPENDIX XIII

LAND AND LABOR RESOLUTIONS, CONFERENCE OF GOVERNORS OF THE EAST AFRICA DEPENDENCIES[1]

THE adoption of a definite Land and Labour Policy was considered to be one of the most important items before the Conference. There was general agreement that a definite policy was essential; and, further, that the Government should make it clear that when a policy had been accepted it was the intention of the Government that it should be acted upon. The

[1] From *Conference of Governors of the East African Dependencies, 1926, Summary of Proceedings*, pp. 13-17.

issue of instructions of an equivocal nature to district officers, as had happened sometimes in the past, had been harmful; in such circumstances each district officer interpreted his instructions in his own way, policy varied from district to district, and neither native, settler nor the district officer knew the real intention of the Government. The whole question of Land and Labour Policy was examined in great detail, and eventually a Memorandum was drawn up, which was accepted by the Conference as the basis of Land and Labour Policy in the East African Dependencies. This Memorandum reads as follows:

Land and Labour Policy in the East African Territories

East Africa has two remarkable features which differentiate it greatly from British West Africa and from most of the Empire's other tropical possessions. In the first place, the population is very sparse by comparison with the extent of the territory and its potentialities. In the second place, large areas are by reason of their altitude suited climatically for European colonization.

It is generally admitted that European control in some form is necessary to the welfare and development of the African peoples. In no other way can peace be secured, improper exploitation prevented, and the country developed to anything like its full producing capacity. Where the population is sufficiently numerous the development can be carried on under European administration and the produce marketed by European merchants. This is the natural course of affairs in West Africa. But in East Africa the population is not sufficient to secure development in the same manner; and if the whole country were to be handed over to a policy of native production alone under the guidance of European administration, it would have to be constituted an economic sanctuary so as to prevent the economic needs of the outside world from forcing some other form of development upon it. For these reasons East Africa has already been committed to what is known as the dual policy—that is, to a combination of non-native and native production.

The broad contrast presented by natural conditions in different parts of East Africa is illustrated by the difference between Kenya and Uganda. In Uganda the population is sufficient for native production on a very large scale and the climate is also unsuitable for European colonization. Uganda is, therefore developing broadly on the same lines as West Africa. In the Highlands of Kenya, on the other hand, the native population is totally insufficient and unfitted to develop the country. Its present scale of production would, therefore, have been impossible unless the railway had been built across the Highlands and had brought in its train several thousand European colonists. The contrast presented by Kenya and Uganda in this respect may also be seen on a small scale within the territory of Kenya alone. It is also to be studied in Tanganyika.

The dual policy, however, raises considerable problems of its own. On

the one hand, there is the obligation which rests on every civilized Government of raising the capacities of its human subjects to their fullest expression; on the other, there is the equally imperative duty of developing to the utmost the productive power of its possessions. This latter duty cannot be performed under any system which sacrifices the native human being to foreign exploitation of the soil. It is not possible to allocate to each area the quota of human labour required for complete commercial success. The whole problem is to arrive at a just and far-seeing method of harmonising the best progress and welfare of the native inhabitants with the maximum of production.

In solving this problem East Africa has one special advantage. There are examples elsewhere of the difficulties created by a disinterested and high-minded officialism, which gives a country good government without providing adequately for its economic development. In East Africa this danger may be avoided by the fact that native and European populations are growing up side by side, with an increasing knowledge and understanding of each other's requirements. Given good government, there is room in East Africa for many times its present population. There is a great opportunity of providing for its economic development without improper exploitation on the one hand or unwise indifference to economic pressure on the other. There are, too, a soil and climate which may easily produce enough to give the raw material, and the markets necessary, to relieve and raise some part of the unemployed millions which constitute Europe's greatest problem.

The essential is to have a clear policy in regard to two factors—Land and Labour.

LAND.—The land of East Africa may be divided into certain broad categories:—

(a) First, there are those lands which, as jungle or forest or desert or swamp, or because of the inroads of human and animal disease or for other causes, were indubitably unoccupied and unclaimed at the time when our Government was established.

(b) Secondly, there are those lands to which there was only a doubtful claim, the "lands of the spear," where the cattle of hostile tribes grazed under warrior guard whenever grazing was scarce at home.

(c) Thirdly, there are the lands effectively occupied by a large and settled native population.

This third category of land should clearly be reserved to its original native owners. In the other two, sufficient land for their own use should be secured to the native tribes originally sprinkled or wandering over it, but the rest is clearly the property of our Government, to develop in the manner which it considers most suitable and effective.

The following conclusions emerge therefore as to the right method of dealing with land:—

(1) Wherever a native population exists, sufficient land should be secured to it to afford full opportunity for economic stock breeding and dairying, or

for the production of crops according as the tribal bent is for pastoral or agricultural pursuits.

(2) European colonization should be encouraged wherever the climate is suitable and adequate areas are available for settlement, without depriving the existing native population of sufficient land for its own use.

(3) The area of land reserved for a native tribe should be sufficient to accommodate the whole tribe together, so that where a tribal organization exists it may be preserved and improved; and that where none exists, some form of native institutions may be gradually developed.[2]

LABOUR.—The following principles in regard to labour arise out of the foregoing conclusions as to land:—

(1) The ideal in view should be to enable land to be put to the best possible economic use, while also providing for the steady progress and welfare of its native inhabitants, and safeguarding them against serfdom in any form whatever.

(2) Steady progress cannot be secured in some areas unless every able-bodied native who shows no tendency to work is given to understand that the government expects him to do a reasonable amount of work, either in production in his own Reserve or in labour for wages outside it.

(3) In areas where the first alternative is not within his reach, the native should be definitely encouraged to go out to labour. In others, where both alternatives are open to him, the Government is not concerned to impose either upon him, but simply to ensure so far as it can that he shall work in the cultivation of his own land, if he pleases, or else as a wage-earner on alienated land if he prefers it. In all areas where these two alternatives exist, the natural play of human preference and economic impulse should be allowed to take its course, so that the native may choose to work in whichever way pays him and pleases him best.

(4) While communications are undeveloped and distribution therefore difficult, it is essential that the native should be instructed to grow sufficient foodstuffs for his own livelihood. Otherwise, provided risk of famine be avoided, the natural play of economic forces should be allowed to decide the choice of crops.

(5) In establishing markets for produce, it is desirable that the process of production should be regulated so as to secure the most efficient methods and the highest possible standard of product. These considerations necessitate some regulation of methods of production and the standardisation of products by grading. If these principles be accepted, they will indicate what restrictions may be necessary in the growth of certain crops by natives. There is no case for prohibiting a native, just because he is a native, from growing any economic

[2] The Governor of Tanganyika accepts these conclusions subject to the following reservations—(A) The land policy of the Territory as defined in the Land Ordinance whereunder the land is vested in the Governor for the use and common benefit, direct or indirect, of the natives, to remain unimpaired in every respect; (B) The Government of Tanganyika does not commit itself to the policy of Native Reserves, to which it is opposed.

crop; but there is a very strong case for debarring from production any inefficient producer who endangers other producers, whatever his race. There is little doubt that for many years to come the majority of natives will be unable to grow certain crops with safety and efficiency, but there are many others which they are well fitted to grow.

(6) In areas open to settlement, Government should encourage the growth of those crops for which the least labour is required, and should, where necessary, regulate the growth of those which make heavy demands on labour for a short period in the year.

(7) It is by no means certain that the native will prove capable of making adequate economic use of all the land secured to him, but there is no reason on that account why any attempt should be made in the future to take the land from him. It is, indeed, evident that in most cases the native is alive to considerations of economic advantage, and that his rudimentary ideas of the nature of wealth are changing. He is not likely to be content forever with owning undeveloped land or with the mere multiplication of herds of cattle, when he sees the profit that can be made in neighbouring areas from the skilled cultivation of land and from economic animal husbandry. He will always be free to choose whether he develops his land himself or brings in the aid of European knowledge and skill to develop it; and in many cases he will probably prefer to lease his land for cultivation by others rather than to take the risk and trouble involved in organising its cultivation himself. There is no reason why Government should limit his freedom of choice, provided only that the land is leased on fair terms and that adequate rents are secured for its native owners.

APPENDIX XIV

Agriculture and Labour—Instructions of the Tanganyika Government

1. The first object of the Government is to induce the native to become a producer directly or indirectly, that is, to produce or to assist in producing something more than the crop of local foodstuffs that he requires for the sustenance of himself and his family. This does not mean that he must necessarily produce exportable crops. The number of people in the territory who are not in a position to grow their own food is increasing and is bound to increase, and it is a vital matter that the supply of locally grown foodstuffs should increase rather than decrease.

2. The natives in some localities in the Territory are exposed to periodical famine, and it is the duty of the Agricultural Department to ameliorate this state of affairs: to save a native community from famine is more important than the export of many bales of cotton. Where cotton or other seed is distributed free of cost, a condition should be made, if the Administrative Officer considers it necessary, that a certain area should also be kept in cultivation with local foodstuffs.

3. In localities in which natives (*e.g.* the Wanyamwezi) are industrious,

growing economic crops under conditions which are entirely suitable from the point of view of climate, soil, transport facilities, etc., and going out to labour, the Administrative Officers should encourage them in both forms of activity; as the people may desire.

4. In other localities suitable for the cultivation of economic crops by the natives in which they are not industrious the Administrative Officers should exhort them, through their chiefs, to adopt some form of active work, but should inform them, at the same time, that they are free to grow their own crops for sale or export or to labour for others as they may desire. The Administrative Officer should in the first instance remain neutral as far as possible, and the propaganda work in connection with peasant cultivation of crops for sale or export should in the first instance be done by the Agricultural Department, but the meetings of these officers with the chiefs and their people should be presided over by the Administrative Officer. If an Administrative Officer is, however, of opinion that there are special reasons for declaring an area, without such delay, to be an area in which the cultivation of crops for sale or export should at once be encouraged by the Administrative Staff, *e.g.* because the people have generally been shown to be unfitted for labour on the farms or are unwilling to undertake it he may apply for authority to so declare it.

5. As soon as it is shown to the satisfaction of the Administrative Officer that a body of natives desires to grow economic crops for sale or export he should assist them in every way to do so. If he finds, however, that a particular community turns a deaf ear to his exhortations to them to adopt some active form of work it will be his duty to use every legitimate means at his command to induce them to take up the cultivation of economic crops.

6. No steps should be taken by Administrative Officers or the Agricultural Department to induce natives who have contracted the habit of working on farms in their neighbourhood to abandon that habit in order to grow their own crops for sale or export.

7. The foregoing paragraphs have been written from the point of view of the free distribution of cotton or other seed. Where a native makes an application to *purchase* such seed, it should not be refused if he is situated in a locality in which the crop can be grown and if it is possible to comply with his request.

8. In localities in which the native cannot grow economic crops owing to lack of transport facilities Administrative Officers can best serve the State by exhorting the natives, through their chiefs, to adopt some form of active work, pointing out that situated as they are they can only do so profitably by engaging to work for the Government or on the farms which are seeking their labour.

9. If a native is leaving his home to seek work or under contract of labour and desires to take his family with him no pressure should be exerted to prevent him from doing so.

5th August, 1926. DONALD CAMERON.

SECTION VI
UGANDA

CHAPTER 31

UGANDA ADMINISTRATION

A COUNTRY of elephant grass and banana trees, Uganda leads a happy and secluded life, five hundred miles inland from the Indian ocean. Its western frontier marches with that of Kenya and also touches the water edge of Lake Victoria Nyanza. On the west, it adjoins the Belgian Congo, and on the north, the Sudan. The country, which has an area of one hundred and ten thousand square miles, is located on the equator. Despite this fact it has a fairly high elevation—the lowest point being 1560 feet, at Lake Rudlof, and the highest point being 16,794 feet, in the Ruwenzori range. Uganda is broken by a chain of historic lakes—consisting of the immense Lake Victoria Nyanza and smaller bodies of water such as Lake Kioga, Lake Albert, and Lake Rudolf. It was in Uganda that the long-sought-for source of the Nile was found. This river begins its life at Lake Victoria near Jinja, in a region shaded by papyrus grass and watched over by long-legged cranes.

Uganda, as a glance at the map will show, is separated from the sea by the colony of Kenya. It was only the construction of the Uganda Railway in 1896 which made the occupation and retention of the protectorate by the British possible.[1]

1. *Population*

While in area Uganda is less than half the size of Kenya, its native population is somewhat larger, numbering a little less than three million. The people of Uganda are divided into two main groups—the Nilotic group, composed of grain-eating people who are found on the northern and eastern edges of the country; and the Bantu group, banana-eating tribes found in Buganda, in the Western, and in part of the Eastern Provinces.

There are 1451 Europeans and 7229 Indians in the country. While most of the Europeans are in the government service, practically all of the Indians are employed as clerks and artisans, or are in trade for themselves.

[1] At the present time, Uganda receives 37.5 per cent of the customs duties collected at the port of Mombasa by an amalgamated customs department.

It is believed that Indian *dukas* control ninety per cent of the trade of the protectorate, while Indian *fundies* dominate the crafts.

The total population is divided as follows:

Population Distribution in Uganda, 1924.

District	Population	Area in square miles	Number per square mile
Buganda Province	798,052	22,370	35.67
Eastern Province	1,170,017	35,438	33.02
Western Province	583,706	13,766	43.13
Northern Province	443,674	23,270	19.06
Rudolf Province	150,000[2]	15,456	....
GRAND TOTAL	3,145,449	110,300	28.52

No attempt has been made to restrict the land holdings of Indians in Uganda as has been done in Kenya; and the segregation measures established upon a basis of race as a result of the Simpson report have been abolished. The Indians still, however, have grievances, particularly over the fact that they are obliged to ride on the railway and on steamers in "Asiatics Only" sections, although Japanese cotton buyers may ride in European compartments. They have complained, also, that Indians holding medical and law degrees from Indian universities are not allowed to practice in the protectorate, and that Indian hospitals and schools are inadequate.

It is interesting to note that the Indian Association, in a memorandum to the East Africa Commission, advocated the settlement of Uganda with Indian settlers, and also the recruiting of labor by the government for private enterprise. It would appear that the introduction of Indian agricultural enterprise, unless the Indians furnish their own labor, would lead to the same conditions as European settlement in Kenya. That Indian enterprise in Uganda is on a large scale is demonstrated by a remarkable sugar factory and estate between Kampala and Jinja operated by a prominent Indian business man.

2. *Native State Agreements*

British jurisdiction in Uganda is controlled in parts of the territory by three agreements made with native states in 1900. The most important is the Buganda agreement discussed in detail later. The British authorities also made agreements with the kingdoms of Ankole and Toro promising to respect their institutions. These territories are, however, subject to such general laws and regulations as are generally in force throughout the Uganda Protectorate. While no agreement was made with the kingdom

[2] Approximate only. *Blue Book, Uganda Protectorate, 1924,* Section 15.

of Bunyoro, it has been administered in much the same way as the other states. In 1905, the British Government terminated the agreement with Ankole, following the murder of a district commissioner. Half a dozen natives were convicted by the High Court at Entebbe for this murder, but the case was appealed, through the good offices of the Church Missionary Society, to the Court of Appeal at Zanzibar which acquitted these natives. Upon their return to Ankole, the government was in a delicate position; the murder had been committed and the guilty person had not been apprehended. It finally decided to terminate the agreement, to deport the natives concerned, and to impose a collective fine of twenty thousand cattle upon the tribe. Since that time, some of the Ankole prisoners have been allowed to return, while the agreement was restored in 1912.[3]

That these agreements have constitutional importance is illustrated by a case in 1907, in which a native attempted to appeal from a decision of the *Lukiko*[4] of Ankole to the High Court. The Uganda Order in Council, issued in 1902, two years after the Agreement, had established a High Court having full jurisdiction. But the agreement provided that natives tried by native courts could appeal to an administrative officer and not to the High Court. In this case, the judges decided that they had no jurisdiction on the ground that "an Order in Council could not vary existing agreements."[5] The Secretary of State for the Colonies also ruled:[6] "The validity of the Uganda Order in Council, 1902, in so far as it nullifies this reservation, is consequently open to question. . . . In these circumstances, I am advised that the Uganda Order in Council, 1902, should be construed in such manner as not to impair the right thus reserved." Therefore, the court could not entertain the appeal.[7]

Ankole and Toro are ruled by Paramount Chiefs corresponding to the

[3] Altogether, four agreements have been made with Toro: the Agreement of 1900, the Poll Tax Agreement of 1910, the Judicial Agreement of 1912, and the Poll Tax Agreement of 1914. These agreements follow the changes made in similar Buganda agreements. For the texts see *Laws of the Uganda Protectorate,* 1923, Vol. III. Hereafter cited as *Laws.*

Following the restoration of the Ankole Agreement in 1912, three further agreements were made: the Ankole Boundaries Agreement of 1914, the Boundaries Agreement of 1923, and the Ankole Mugabe's Private Estates Agreement of 1923. For the latter, Cf. *1926 Supplement to the Laws of Uganda,* pp. 269, 271. This agreement altered the location of the fifty square miles guaranteed to the Mugabe.

[4] Or Native Council, cf. Vol. I, p. 579.

[5] Katosi v. Kahizi, *Uganda Law Reports,* Vol. I, p. 22 (1907). This judgment appears to be in conflict with the opinion of the Privy Council in the Swaziland case, cf. Vol. I, p. 197.

[6] His opinion was requested under Sec. 4 of the Foreign Jurisdiction Act, 1890.

[7] Actually this decision conformed to the wishes of the administration which desired to control native cases. This judgment led to the negotiation of the Judicial Agreements, conferring this right of appeal. Cf. Vol. I, p. 582.

Kabaka of Bunyoro, but called the *Mugabe* and *Mukama* respectively. These kings designate their own successors with the consent of the British authority. They in turn are assisted by county chiefs, fourteen of whom are in Ankole and six in Toro. Except in Buganda, the government pays ordinary chiefs ten per cent of the poll tax instead of a regular salary. Seventy per cent of this payment goes to the *saza* chiefs, while 30 per cent goes to the *gombolola* chiefs. The government usually pays Paramount Chiefs twenty per cent of the tax collected in their districts, but it pays the Bunyoro chiefs thirty per cent because of the poverty of this kingdom. Plans are now under way to pay all chiefs fixed salaries.

3. *Administrative Organization*

Under the authority of the Order in Council of 1902, the government has divided Uganda into five provinces, each headed by a provincial commissioner.[8] In 1920, an Order in Council was issued establishing a Legislative Council in Uganda composed of an official majority together with two unofficial Europeans and one unofficial Indian member appointed by the Governor.[9] Inasmuch as they outnumbered the Europeans five to one and were British subjects, the Indian population of Uganda called this representation unjust, and as a protest declined to accept their seat between 1920 and 1925. To enforce this point of view, the Uganda Indian Association called a strike in which Indian shops were closed in 1920. The government justified the granting of only one Indian seat on the Council on the ground that only a few Indians could meet the educational qualifications of the European. In reply, the Indian Association demanded a franchise based upon educational and property qualifications applying to all races alike—a proposal which was refused.[10] The Uganda Indians continued to decline the seat on the Legislative Council, despite advice to the contrary from the government of India.[11] It is understood, however, that the Indian Association agreed, in 1925, to accept a nominated member on the understanding that it would not prejudice their claims for an increase in representation later.

4. *Courts*

Two systems of courts are recognized in the protectorate: (1) the British courts, composed of a High Court, Courts of Sessions, and District

[8] The Rudolf Province has recently been administered to Kenya Colony pending a readjustment of the frontier which was effected by the Kenya (Boundaries) Order in Council, 1926. *Statutory Rules and Orders,* 1926, p. 569.

[9] *Laws,* Vol. II, p. 1210.

[10] *Summary of the Proceedings of the Legislative Council of Uganda,* Aug. 1921, p. 18.

[11] *Ibid.,* June, 1921, p. 15.

Courts; and (2) the Native Courts. The High Court is composed of a number of professional magistrates. It is assisted by a native court adviser who is now the son of the late Katikiro of Buganda, and who receives a salary of three hundred pounds. The Courts of Sessions are made up of the provincial commissioner of each province, and the District Courts are usually made up of district and assistant commissioners.[12]

In all civil cases to which a native is a party, every court shall be guided by native law so far as it is applicable and is not repugnant to justice and morality or inconsistent with the laws in force for the time being within the protectorate. Assessors are to be called by the District Courts in certain civil cases affecting natives. British magistrates, however, are strictly bound by the provisions of the Criminal Procedure Ordinance and the Indian Penal Code. Native law is therefore applied largely to civil cases which come up on appeal, rather than to crimes.[13] The Native Courts, as recognized by the British Government, function under the general supervision of the District Court to which there is a right of appeal (except in Buganda) and which has revisionary powers.[14]

[12] The Courts Ordinance, *Laws,* Vol. I, p. 9. However, the District Courts at Kampala, Junga, and Mbale are composed of professional magistrates.

[13] In non-native cases, the District Courts may punish by imprisonment up to two years, by fines of two thousand shillings, and by whipping, but have full jurisdiction over natives, subject to the Code. Articles 10-11, Criminal Procedure Ordinance, Chap. 5, *Laws.* In 1925, the use of the kiboko (hippopotamus hide) for the infliction of the punishment of whipping was abolished. 1926 *Supplement to the Laws of Uganda,* p. 96.

[14] For Rules of Court, cf. *Laws,* Vol. III, pp. 74 ff.

An appeal in both civil and criminal matters may be taken from a Native Court to a British court, and Native Courts must make civil and criminal returns. District officials, acting as supervisory courts, may revise judgments. Part V, Courts Ordinance; Sections 21-33, Criminal Procedure Ordinance, *ibid.,* Vol. I, pp. 15, 38.

Native courts also in theory follow native law in determining the existence and punishment of crime. But when they hear cases which are criminal under British but not under native law, their jurisdiction is limited by British statutes. One such case involved the offense of gambling, which was an offense, not under native law, but under the British Gambling Regulations. In this case, a Native Court sentenced three natives to imprisonment ranging from four months to a year. But the court held: "Where an offence has been created by our laws, which is not known under native law, and a maximum punishment is prescribed, it is not competent for a native Court to pass a higher sentence than would be passed by a British Court" which in this case was one month. Cf. Rex v. Kiwanaka, 1920, *Law Reports, cited,* Vol. II, p. 355.

Native Courts have been established in about twenty townships in Uganda, in the Eastern and Northern Provinces. The members of these township courts, appointed by the district officer, are usually the Crown Lands headman as president and other leading natives as members. These township courts have jurisdiction in civil disputes between natives in the township involving up to one hundred and fifty shillings, and they may try offenses with a punishment of imprisonment up to one month or a fine of one hundred shillings, or ten lashes. There is an appeal to the District Court. Apparently, these township courts are based upon the same idea as the native courts recently established in the communes in French West Africa. Cf. Vol. I, p. 1015.

As a rule, Native Courts in the agreement areas of Toro and Ankole have a greater jurisdiction than elsewhere. While the Lukikos[15] of Ankole, Toro, Busogo and Bunyoro have full jurisdiction except in regard to murder and witchcraft and certain other cases, the highest ordinary native tribunals elsewhere may impose only one year's imprisonment, a fine of three hundred shillings, or twenty-four lashes. The jurisdiction of the courts of county chiefs and sub-chiefs is correspondingly lower.[16]

5. *Native Advisers and Lukikos*

It has been the policy of the British Government to introduce the system of native administration worked out so successfully in Buganda,[17] into the other parts of the protectorate where it did not originally exist. Thus it has established Native Courts in some fifteen different districts, and recognized and developed the power of local chiefs. These chiefs are assisted by native advisers or agents, who have usually been members of the ruling class in Buganda. These advisers differ from the German *akidas* in Tanganyika in that they are supposedly advisers, and not chiefs. Many of them have been tempted, however, to assume responsibility rather than merely control. While opinion is not unanimous, it appears that these agents under close and continuous supervision by district officers, have been more successful than European advisers would have been in training local chiefs to meet the responsibilities connected with tax collection and the administration of justice. At the present time, the Buganda advisers have been withdrawn except in certain backward areas where "county agents" still advise the saza chiefs and Lukikos. In Teso, all except two such advisers have been withdrawn, and the native chiefs are standing on their own feet.[18] About six thousand pounds is still expended annually upon these agents and followers.

In about a dozen of the outlying districts will be found Lukikos, or native parliaments—organized upon the same basis as in Buganda. Usually, these Lukikos are also courts sitting continually with a quorum of seven. Once a year, a plenary meeting is held. Fines imposed by these Lukikos in the Eastern Province, the Gulu, Chua, and West Nile districts of the Northern Province, and in the Kigeri district of the Western Province are administered by boards consisting of the district commissioner concerned and three members of the Lukiko in each district, under the control of the provincial commissioner. These funds are used for public works of direct benefit to the people, such as making culverts

[15] For the even wider jurisdiction of the Buganda Lukiko, cf. Vol. I, p. 581.

[16] Jurisdiction is defined and courts are established by the Governor by proclamation. Cf. *Laws*, Vol. III, pp. 34-82.

[17] Cf. Vol. I, p. 574.

[18] *Uganda Gazette*, 1924, p. 364.

and bridges, buying cattle and carts for road making, as well as canoes for ferries.

These Lukikos also have a certain legislative power in regard to native law, recognized by the Native Law Ordinance of 1919.[19] The Governor's consent is necessary to make valid their enactments. Eight Councils including the Lukikos of Busoga, Toro, Ankole, Teso, and the Councils of Acholi and Lugwari have been granted this power.[20]

An annual allowance of three hundred pounds is made to Kakunguru, a Bukedi chief. Originally he was a Buganda chief who assisted the British many years ago in the conquest of Bunyoro. Since he was more or less of a rival of the Katikiro, the British took him and four thousand followers to Mount Mbale, and told him that he could govern this country as his own. Kakunguru proceeded to put in the Buganda system of administration, with "foreign" saza and gombolola chiefs. When in about 1901 the British extended their administration to this country, they encountered the opposition of Kakunguru who insisted that the British had promised that he could always govern it. But the British denied that they had made any such promise. They had come to realize that they could not permanently impose an alien Paramount Chief upon these people. When Kakunguru made trouble for them, they took away his power, but in return made him president of the Busogo Lukiko. Upon his failure here, he was made a saza chief, in which capacity he again made trouble by preaching the Malaki religion.[21] His attitude led to his deposition, but he still draws an annual subsidy of three hundred pounds a year.

While it has no Paramount Chief, Busogo is the most advanced native government, next to Buganda. The president of the Lukiko draws a salary of five hundred and fifty pounds a year.

6. *Taxation*

The British Government imposes a number of obligations upon the natives of Uganda, the first of which is taxation. Each adult male native is liable to a poll tax, the rate of which throughout Ankole, Bunyoro, Buganda, and the greater part of the Eastern Province is fifteen shillings. Elsewhere, it ranges from six to ten shillings, according to the relative wealth of the district concerned.[22] While the maximum rate in Uganda is three shillings higher than in Kenya, the Uganda native is better off, since he is not obliged to pay a hut tax as in Kenya.[23]

[19] *Laws,* Chap. 62.
[20] *Ibid.,* Vol. III, p. 208; *1926 Supplement to the Laws of Uganda,* p. 186.
[21] Cf. Vol. I, p. 612.
[22] Schedule, Poll Tax Ordinance, 1920, *Laws,* Vol. I, p. 595.
[23] Cf. chart in Vol. I, p. 383.

In one part of Uganda—the Buganda Kingdom—the natives are also subject to a land tax. In 1922, the British Government and the Kabaka of Buganda made a Tax Agreement [24] imposing a land tax of twenty shillings (in addition to the poll tax) on every Buganda owner of five or more acres of land.[25] A tax of two shillings could also be imposed upon natives not owning five acres if the Kabaka and native government believed that circumstances warranted its imposition. Every Buganda land owner was likewise made liable to pay a tax of ten per cent of the rent which he received from his tenants. Three hundred and six thousand shillings out of the five hundred and twenty thousand shillings which it was estimated would be derived from the tax were to go to the native government and the remainder to the British in order to advance education and to combat venereal disease. As a matter of fact, this development tax, which applies only to Buganda, has yielded less than half of this amount. While the agreement was made for a period of one year, it was renewed for another year. It is probable that some other form of taxation will be enacted inasmuch as a land tax bearing equally on the holder of five acres and on the *mailo* [26] owner of five square miles is scarcely equitable.

Another tax, which constitutes the third largest item in the revenue of the country, is the cotton tax.[27] This is a tax on cotton exports the rate of which in 1924 was 3/4 penny a pound. The funds derived from this tax supposedly go to the development of the cotton industry. It is difficult to say whether the incidence of this tax falls upon the native, the European ginner, or the consumer. Judged by their complaints, the European ginners believe that the tax falls upon the middleman rather than upon the native.

7. *Kasanvu Labor*

In addition to taxes, the British Government imposes certain labor obligations, the first of which is communal or *luwalo* labor. In Buganda proper, this obligation is owed to the native government instead of to the European authority, and hence will not be discussed here.[28] But in the

[24] Unlike the other parts of Uganda, the rate of the poll tax here is fixed by agreement. Article 13 of the Agreement of 1900 fixed the hut tax at three rupees or four shillings and a gun tax at the same rate. The hut tax was changed to a poll tax and the rate increased to ten shillings in an Agreement of 1910, and to fifteen shillings in an Agreement of 1920. *Laws,* Vol. III, p. 478.

[25] *Ibid.,* Vol. III, p. 482; also Buganda Taxation Ordinance, *ibid.,* Vol. I, p. 596.

[26] Cf. Vol. I, p. 591.

[27] The customs provide 400,000 pounds, poll taxes, 401,500 pounds, and the cotton tax, 216,000 pounds out of a total revenue of 1,306,761 pounds.

[28] Cf. Vol. I, p. 584.

three other provinces of the protectorate, natives are obliged to furnish thirty days of free labor a year on the roads, or six days more than in Kenya. At present, this obligation cannot be commuted for a sum of money. But the Uganda Government is considering a proposal to allow the natives in the Eastern, Northern, and Central Provinces to commute eighteen days of this labor for a payment of six shillings, one shilling of which should go to a chiefs' pension fund, one to education, and four, along with a proportion of the poll tax, into a fund out of which regular salaries of chiefs shall be paid. For the time being, the natives will be required to pay the remaining twelve days in communal labor. The present system in Uganda appears open to the same objection as elsewhere,[29] but some of these objections will be eliminated by the adoption of the principle of commutation.

In addition to obliging the natives to perform a month's unpaid labor for communal purposes, the Uganda Government also resorts to compulsory paid labor for certain public purposes. Before 1921, practically all the labor required for government services was secured by a form of compulsion, under a system of *kasanvu* labor. No serious effort to obtain voluntary labor was made; men were called out under the Native Authority Ordinance under which they could be required to do work "of a public nature" for not more than sixty days in any year, unless employed for a period of three months in any other occupation.[30] It is estimated that twenty thousand men were annually obliged to submit to this obligation. The situation was described by a government circular as follows: "At present, but a small proportion of the unskilled labour employed by Government departments is voluntary. There are many reasons for this, not the least of which is that officers, being assured of a continuous supply of compulsory labour, have not found time to give that personal attention to the requirements of their labour and to causes for discontent among them which is essential if a supply of volunteer labour is to be attained. Headmen also have not encouraged voluntary labourers as they must be handled with tact and patience—qualities which need not be exercised in dealing with Kasanvu labourers, who are not free agents."[31]

Thus compulsion worked in a vicious circle. It discouraged attempts to secure voluntary labor. It also resulted in all the dullards being swept into government employ, while the intelligent natives, to escape this requisition, sought more popular employment with European coffee

[29] Cf. Vol. I, p. 369.
[30] Sec. 7, B. (i), Native Authority Ordinance, 1919, *Laws*, Vol. I, p. 586.
[31] Circular No. 3 of 1922, "Unskilled Labour."

planters. Such a form of compulsion, though nominally for public purposes, indirectly benefited private employers.

This labor was taken in the middle of every month to work the next month. Only steady men, having a stake in the land, men with families cultivating shambas,[32] could be caught, as the unmarried men would scoot off at the rounding-up time. These young men were reluctant to marry and settle down upon a shamba, and became wanderers, escaping all obligations, including those imposed by the tribal authority. The institution was thus destroying native society. The system itself was breaking down because of the difficulty of catching the men. Between 1917 and 1920, the government experienced a severe labor shortage.

These considerations led to the abolition of this system in 1923. Following the despatch relating to native labor in Kenya, which declared that the same principles would be extended to Uganda and Zanzibar,[33] the Uganda Government passed an amendment of the Native Authority Ordinance which imposes the same restrictions upon the use of compulsory labor as exist in Kenya. That is, it can not be employed,[34] except for government porterage, without the prior consent of the Secretary of State, which is seldom given except for railway or road construction. Apparently one of the most important results of this abolition has been an increase in the population in Buganda which hitherto showed a decline.[35] Many reasons might have accounted for this; but not the least important reason was that the Buganda native, instead of being carted around the province by compulsion, now stayed at home on his shamba. A second result of this abolition has been a labor shortage. But the real reason back of this shortage is not so much the abolition of kasanvu labor as the great increase of cotton production which has absorbed the labor supply and disinclined natives from seeking employment.[36]

8. *Communal Labor*

In place of the old kasanvu labor, a system of communal labor is now being employed in parts of Uganda for the construction of new roads. This labor is requisitioned under the Native Authority Ordinance (Amendment) 1923, subject to the prior approval of the Secretary of State. It is used to construct metalled roads which do not require the labor of maintenance which must now be applied to ordinary roads. The entire male population within a radius of five miles on each side of the road is

[32] The native word for farm.
[33] Para. 5, Cmd. 1509 (1921), cf. Vol. I, p. 336.
[34] No. 14 of 1923. *1926 Supplement to the Laws of Uganda*, p. 2.
[35] *Annual Medical and Sanitary Report*, Uganda Protectorate, 1923, p. 7.
[36] Cf. Vol. I, p. 622.

called out in installments for a short period at a time when they have little work to do in their own gardens. Since this type of construction will relieve natives of maintaining the road in the future, the chiefs as well as the peasants have accepted with good grace the obligation which now falls equally upon all. During 1923, 14,097 men were called out [37] under the communal system. In 1924, the number was 19,900, each working an average of 23.4 days.[38] They are paid the market wage. In 1924, nearly seventy-five miles were built at a cost of about one hundred and seventy-five pounds a mile, compared with a cost of six hundred pounds a mile under a system of regular voluntary labor, where men work under departmental officers for a long period rather than under their chiefs and political officers.

Despite this use of communal labor on road construction, government departments have recently experienced grave labor difficulties, particularly in regard to transport and building. About fifteen hundred men a month are required by the Public Works Department, while fifty-five hundred men are employed on railway construction. Unable to obtain labor by compulsion and to find volunteers in the cotton growing areas of Buganda and the Eastern Province, the government in 1923 established a Labor Bureau for the purpose of recruiting government labor in the non-producing provinces, primarily from the Ruanda district in the south and from the West Nile in the north—areas where native production has not been developed. This Labor Bureau is headed by a Labor Commissioner, and it employs native recruiters, who receive six pence a recruit. Two European "conductors" are also now employed. The natives sign four-month contracts at twelve shillings a month and food, the latter costing the government about eight shillings a month. If the native stays six months, his wage is increased two shillings. These boys are subject to a medical examination before they start on their journey down to the industrial centers of Uganda, such as Kampala and Jinja. In 1925, the Bureau recruited about twenty thousand men, including twelve thousand who came from Ruanda [39] and six thousand from the West Nile.

In 1924 and 1925, the Uganda Government was frightfully negligent in protecting this labor on the way to its destination. Natives were obliged to walk most of the way without adequate provision being made for their wants. Sanitary and cooking arrangements in rest camps were

[37] *Report of the Department of Public Works,* 1923, p. 10.
[38] *Ibid.,* 1924, p. 7.
[39] Much of this labor was composed of natives from the Belgian Congo who, tired of past compulsion and ill-treatment on the Kilo mines, were also attracted by the relatively high wages due to the depreciation of the franc. This emigration question has been made the subject of representations by the Congo to the Uganda Government.

particularly bad. Apparently the medical examination was inadequate, since many natives carried tick or spirilium fever from one end of the country to the other. According to the medical report on this "imported" labor, the annual death rate was one hundred and eighty per thousand, of which fifty deaths per thousand were on account of dysentery. The treatment of laborers returning home after the completion of their contracts was particularly bad. They were simply given rations at the beginning and then left to shift for themselves, with the result that many died.

More effective administration can remedy these evils.[40] The government has decided to erect labor locations at centers of employment, which will help. Nevertheless, these importations of temporary alien laborers, coming over hundreds of miles, and living under artificial conditions whether of housing or food, are based upon an unhealthy principle. The condition of the villages in the non-productive parts of Uganda is described by one missionary in the Western Province as follows: "The whole population of able-bodied men now spend more than half the year away from their homes, working on the tillage of the soil or carrying the cotton to the ginneries; while thousands of Banyalwanda from Belgian Ruanda pass through Ankole seeking more from the same source." [41] An extension of the communal labor system which would oblige local natives to work for public purposes [42] would be better than the employment of this alien labor. It should also be possible to organize, through the various Lukikos, a cooperative system of marketing native produce which would relieve the labor shortage from which transport and ginneries now suffer.

[40] New Labor Regulations were issued in December, 1924. They provide for the appointment of a native camp superintendent and a native medical attendant, for standing camps of fifty laborers or more. Government loads for carriers are limited to fifty pounds; marches are daily limited to sixteen miles a day. The protectorate ration scale for labor is fixed at:

1. Maize (finely ground and sifted) or rice (unpolished) ...	1½	lbs.
2. Beans	4	oz.
3. Groundnuts	2	oz.
or Salt	½	oz.

In addition, laborers are given half a shilling a week to purchase green food.

[41] *Annual Report of the Church Missionary Society*, 1924, London, p. 17.

[42] Cf. Vol. I, p. 568.

CHAPTER 32

THE NATIVE KINGDOM OF BUGANDA

In the Middle Ages, Uganda bore the brunt of the invasions of the Gallas who poured out of Abyssinia and swarmed over the Bantu peoples, loosely organized into clans, who inhabited what is part of Uganda to-day. The result of this invasion was the establishment of the native kingdoms of Buganda, Toro, Ankole, Bunyoro, and Busoga. To-day the ruling class in all of these kingdoms bears certain indications of Galla origin, especially in Ankole, where indeed the invaders appear to have kept themselves distinct from the original Bantu inhabitants. With the exception of Busoga, all of these native kingdoms have hereditary kings, and all of them have governing councils, called Lukikos.

1. *The Clans*

The leading people in the protectorate to-day are the Baganda, who number more than six hundred thousand souls. They date their origin from the Galla invasion which brought to them the mythical founder of their nation, Kintu. It appears that he was a powerful chief who welded the various clans into which the Baganda are divided into a nation. Each Muganda [1] belongs to a clan the members of which trace their origin to one ancestor and have a common totem.[2] Each clan also has its family lands, called Bataka land, over which a violent dispute has occurred.[3]

In the past, the head of the clan has been regarded with more veneration than a chief. According to a ruling of Mutsea, the succession to the clan headship must always descend upon a son, unless he is notoriously unfit for the position.[4]

The early Kabakas of Buganda—the descendants of Kintu—superimposed upon this clan organization a hierarchy of chiefs. The country was divided up into ten (later twenty) provinces or counties, each in

[1] Muganda is the singular of the Baganda people who live in a country called Buganda, and who speak a language called Luganda.

[2] The Buganda clan system is discussed in J. Roscoe, *The Baganda, Their Customs and Beliefs,* London, 1911, Ch. VI.

[3] Cf. Vol. I, p. 594.

[4] Cf. Judge Carter, "The Clan System, Land Tenure and Succession among the Baganda," reprinted from the *Law Quarterly Review,* in *Uganda Law Reports,* Vol. I, p. 99.

charge of an *Owesaza* chief [5] who had eight or nine lesser chiefs under him, appointed by the Kabaka, and a number of other officials appointed by himself.

From the time of Kintu down to the present—a period covering a thousand years—there have been thirty-five Kabakas.[6] Descent is invariably through the male line. So great was the objection to women rulers that princesses were forbidden to marry or to have children. Although the Kabaka in the early days was a despotic ruler, the Buganda system of government possessed some remarkably democratic features. It was customary to appoint commoners as saza chiefs, and the mother of the king was obliged by native law to be a commoner, which is still true to-day.

Next to the mythical Kintu the greatest king in the history of Buganda was Mutesa Mukabya, who reigned about 1850. He organized a regular standing army, the troops of which he settled in each district. With the coming of the Europeans, the king supplied these troops with guns instead of spears. As a result of his military power, Busoga, Ankole, and Koki paid tribute to the Kabaka.

2. *The Kabaka's Kingdom*

Long before the British occupation, the Kingdom of Buganda had worked out a system of administration perhaps unique among the native states of Africa. The Kabaka had his prime minister, or Katikiro, who also acted as Chief Justice, while the next important official in the country was the Kimbugwe, or the keeper of the king's umbilical cord. The queen and the king's mother occupied positions of importance.

Each *saza* chief was obliged to maintain a road four yards wide from his country seat to the capital, and some of these roads were a hundred miles long. The construction of these roads and other public work was directed by the Katikiro from the capital. A Muganda called upon to do state work would be obliged to pay the overseer a sum of cowry-shells, in addition to performing labor. Under some overseers, the exactions of cowry-shells became excessive, and led to complaints. At a given time, the Kabaka also collected taxes. Special collectors for each district, together with representatives of the king's mother, the Katikiro, the district chief concerned, and other important native officials toured the districts for this purpose. The taxes were divided up between the Kabaka, his ministers, and the chiefs. From time to time, the king also imposed a

[5] Commonly called *saza* chief.

[6] The list, together with the names of the mothers and the clans of the Kabakas, is printed in the Buganda handbook *Ekitabo Kyo Bwami Bwabami Bomu Buganda.*

tax of boys and girls for the royal enclosure. The king held court with great and solemn ceremony in the Lukiko or Council, the meetings of which were attended daily by the leading chiefs. A system of domestic slavery similar to that in other parts of Africa was in vogue, while human sacrifice for ceremonial purposes was frequently practiced.

Such was the organization of the Buganda people who are among the most intelligent people of all Africa. Handsome physically, they are the only Bantu people in this part of Africa who do not mutilate their persons, and who are familiar with even the most elementary principles of sanitation.[7] The progressive nature of this people is shown by the frequent changes which the Buganda native government has made to adapt native law to changing conditions. After the flight of Mwanga,[8] the Kabaka and chiefs gave up their right to a portion of the estate and the wives of a deceased chief or peasant. In 1916, the Lukiko introduced an innovation by the enactment of a law that Buganda wills should be in writing.[9] These people possess a rich language, Luganda, and their folk stories are marked by a charm and simplicity which would do credit to a European people.[10]

3. *The Uganda Agreement, 1900*

The British Government wisely did not attempt, nor did it wish, to destroy the native organization by means of which these people were being governed. Consequently, Mr. Harry Johnston, Her Majesty's Special Commissioner, negotiated the famous Uganda Agreement of 1900 which recognized the government of the Kabaka of Uganda.[11] In this agreement, the Kabaka and chiefs agreed to renounce in favor of the Queen the tribute they had formerly collected from adjoining provinces, and they further agreed that the revenue of the kingdom should be merged into that of the protectorate. British law enacted for the general government of the protectorate would apply to Uganda, except in so far as it might in any particular conflict with the terms of this agreement. Article 6 provided: "So long as the Kabaka, chiefs, and people of Uganda shall conform to the laws and regulations instituted for their governance by Her Majesty's Government, and shall co-operate loyally with Her Majesty's Government in the organization and administration of the said Kingdom of Uganda,

[7] Cf. H. R. Wallis, *The Handbook of Uganda,* London, 1920, second edition, p. 127.

[8] Cf. Vol. I, p. 277.

[9] This native law was apparently passed after a dispute over a verbal will appealed from the Lukiko to the High Court. Kisule v. Nkangali, *Uganda Law Reports,* 1915, Vol. II, p. 140.

[10] Cf. Mrs. George Baskerville's *The King of the Snakes and Other Folk-Lore Stories from Uganda,* London, 1922; also *The Flame Tree,* London.

[11] Cf. Vol. I, p. 670, for a similar policy in Southern Nigeria.

Her Majesty's Government agrees to recognize the Kabaka of Uganda as the native ruler of the province of Uganda under Her Majesty's protection and over-rule. . . ." The agreement provided that upon the death of a Kabaka, his successor should be elected from among the members of the Royal family by a majority of the Lukiko or Council, subject to the approval of the British Government. The Kabaka's courts were recognized subject to provisions discussed later. The agreement guaranteed that the Kabaka should be paid a minimum yearly allowance of one thousand five hundred pounds. The county organization and the Lukiko were also recognized, together with the saza chiefs and three ministers. No taxes except a hut tax could be imposed on the province without the agreement of the Kabaka and the Lukiko. One of the most important provisions of the agreement related to the land. Half a dozen other agreements have subsequently been made between the Kabaka and the British authorities, relating to such matters as forests, poll taxes and courts.

4. *Present Organization*

The native government thus recognized is at present headed by a Kabaka who is addressed in Buganda as "Your Highness" and who flies a Buganda flag. The present Kabaka, David Chwa, came of age only in 1914. Between 1900 and that date, his kingdom was in the hands of three regents: the Prime Minister,[12] the Chief Justice, and the Treasurer of the Buganda Government. These positions are of great importance to-day. The British Government appointed an administrative officer[13] as the tutor of the Kabaka during his minority. As a result of his efforts, the Kabaka received a thorough European education, but did not lose touch with his people, which usually follows when Africans receive their education over a long period of time in England.

At the present time, the kingdom of Buganda is divided into twenty different counties, each of which has a county or saza chief at its head, who is appointed by the Kabaka in agreement with the British Government. In the Agreement of 1900, the British Government and the Kabaka entrusted the task of administering justice, of assessing and collecting taxes, of keeping up the main roads, and of supervising native affairs to these chiefs in their respective districts. On all questions except the assessment and collection of taxes the county chief reports directly to the king's

[12] The Prime Minister, Sir Apolo Kagwa, resigned from a long period of service in August, 1926, on account of ill-health. He died at Nairobi on February 21, 1927.

[13] Mr. J. C. R. Sturrock, who has now been made Resident Commissioner of Basutoland.

ministers from whom he receives instructions.[14] Each saza chief has a court with criminal jurisdiction over cases involving one year's imprisonment, one hundred fifty shillings' fine, or twenty-four lashes, and over civil cases the subject of which does not exceed five hundred shillings. Cases which exceed these limits go directly to the Lukiko court, to which natives under the saza court jurisdiction may also appeal. The saza courts in turn hear appeals from the courts of sub-chiefs, most of which are so-called gombolola courts. Each saza chief has on the average of about twenty-five thousand people under his jurisdiction.

The twenty counties of Buganda are in turn divided up into districts inhabited by between one thousand and four thousand people in charge of a gombolola chief, who is responsible to the saza or county chief. He has a court which may impose sentences of imprisonment not exceeding three months, fines up to sixty shillings, and whipping up to ten lashes. He may hear civil cases the object of which does not have a value in excess of one hundred and fifty shillings. The British district commissioners in Buganda inspect the records of both saza and gombolola courts, but they do not have the power, because of the Agreement of 1900, to hear appeals, as do district commissioners in other provinces.

Prisoners are invariably confined in native prisons for which the chiefs are responsible. Apparently, they may be committed without a warrant from a British official. The headquarters prisons are inspected at least once a month by district officers, while the saza and gombolola prisons must also be inspected.[15] A few years ago, these native prisons were quite insanitary, but as a result of increased vigilance of inspecting officers, they have been greatly improved. The régime is mild, and a native would probably prefer to be confined in a native rather than in a European prison.

The saza chiefs assume full responsibility for preparing tax registers, collecting taxes, and writing individual receipts by the counter-foil system. Each chief must keep a cash book in which he must enter daily all receipts and payments.[16] By means of this native machinery, the administrative officials are relieved of an immense amount of work assumed by officials in the French and Belgian colonies, and in such places as Kenya. There have been a few scandals connected with native tax collection which led to an investigation in 1924 by a committee of the Uganda Government.

[14] Article 1, Agreement of 1900. This agreement is printed in *Laws*, Vol. III, 2nd edition, and as an appendix to this section, Vol. I, p. 633.

[15] Cf. Uganda Government Circular No. 1 of 1917, "Prisons under Native Government," which provides that district officers shall inspect native prisons.

[16] Instructions re Collection of Poll Taxes by Chiefs in the Kingdom of Buganda (translated into Luganda).

It found that no taxes were embezzled in 1918 and 1919; but that misappropriations later amounted to:

£ 19	12s		in	1920
£ 50	10s		in	1921
£220	5s	3d	in	1922
£685		6d	in	1923

This disconcerting increase in embezzlement in the last two years was due, the committee believed, to the fact that during these years the European staff was very short-handed, and had not been able to check the returns—a condition of affairs which was unduly tempting to the chiefs. According to instructions, poll tax tickets should be checked twice a year, but in this case they had not been checked for three years. In 1925, the tax defalcations had declined to about thirty pounds.[17]

Inasmuch as the county organization of Buganda was superimposed upon the clan system, the chiefs have never been hereditary, except for the Kabaka. Consequently, the Kabaka and administration may choose men possessing the highest degree of intelligence and character, without regard to family trees. There have been a number of cases where sons of peasants have been made gombolola chiefs, and a few instances where such chiefs have been made saza chiefs. The acting Chief Treasurer of the native government has had some such history. Nevertheless, the visitor who has witnessed tribal institutions in other parts of Africa has certain misgivings at the ease with which the British Government shifts a chief from one county to another, just as if he were a British official.[18] In fact, the British Government aims to make out of these chiefs a regular native civil service, composed of educated young men who receive their apprenticeship in a British office. It seems that the British authorities exercise a high degree of control over the appointment and designation of these chiefs, and for this reason, there is a danger that the Buganda Government will lose the autonomy which the presence of hereditary rulers would insure.

In carrying out this aim of establishing a native civil service, it appears that British officials have dealt directly with many native chiefs, instead of first going to the Kabaka. This practice has been made the object of a complaint, part of which reads as follows:

". . . At present, however, as has been pointed out before in this Memorandum, the Kabaka occupies a position which is tantamount to that of an ordinary Paramount Chief of one of the second-rate native tribes of Africa.

[17] These figures are for the whole of Uganda.

[18] For example, the Governor approves the appointment of "X" to be Mutaba V of Gombi, vice "Z", promoted. *Uganda Gazette,* 1923, p. 220. Mutaba V is a title of a gombolola chief. These different chiefs are all listed in *Ekitabo Kyo Bwami Bwabami Bomu Buganda,* the civil list of the Buganda Government.

He no longer has any power or control over his own Chiefs and all and sundry officers of the Protectorate Government appear to possess the right to 'have direct access' to the Kabaka, which right was exclusively reserved to the Governor alone. This practice is clearly contrary to the old native principles and system of Government of Buganda Kingdom, and is certainly in direct conflict with the terms of the Uganda Agreement of 1900. At present, in matters of the native administration of Buganda Kingdom, the Provincial Commissioner in charge of Buganda Province appears to occupy the position which was intended for the Kabaka in the Agreement. The Provincial Commissioner is now the direct ruler of the native chiefs of Buganda through his District Officers. Any order issued to the chiefs by the Kabaka or his Government has to be countersigned and approved by the Provincial Commissioner before it can be transmitted to the Chiefs concerned with the natural result that the Chiefs now are beginning to lose their sense of loyalty towards their Kabaka, since he has now come to be looked upon by these Chiefs as merely the headman or superior Chief of the Natives of Buganda on more or less the same level and receiving an annual salary from the Protectorate Government in the same way as they themselves. This is the effect brought about solely by the practice pursued by the Administrative Officers of the British Government, a practice which is entirely unjustifiable and clearly in conflict not only with the time-honored customs, traditions, and principle of native administration of Buganda, but also with the terms and intention of the Uganda Agreement of 1900 which is the basis of the Constitution of the Native Government of Buganda Kingdom."

This document complains that the three native ministers have lost control of the saza and gombolola chiefs because of this practice of administrative officers of filling up vacancies without consulting them. The document says:

"As a matter of fact, the direct and natural result of this practice has been that some of the more educated Chiefs of the young generation, who are ignorant of the old traditional and hereditary authority of the Kabaka over his Chiefs and people, are now beginning to flout the authority of the Native Government of Buganda, and to consider themselves more as Native Officers of the British Government to whom they are responsible for all their administrative duties in their respective areas."

If this statement accurately portrays British policy toward the native government, it would appear that this policy does not conform to the spirit of the agreement of 1900, and that the continuance of such a policy will lead to the weakening of the Buganda Government and the Buganda nation. Such a result would not only be inconsistent with the broad lines of British policy elsewhere, but it would be lamentable in its effects upon the native peoples of East Africa.

5. *Salaries*

The payment of salaries by the British Government to the Kabaka, his ministers, and the saza chiefs is guaranteed in the original Agreement. As a result of increased revenues and subsequent agreements, these salaries have been raised.[19]

At the present time, the British Government allots a total of 30,205 pounds for salaries to these different officials in the Buganda Province. The Kabaka receives, instead of the fifteen hundred pounds guaranteed in the agreement, a salary of twenty-four hundred pounds, or more than twice as much as a provincial commissioner. Each of the three native ministers receives, instead of the three hundred pounds guaranteed in the agreement, six hundred and seventy-five pounds annually, while the Queen Mother, an extremely influential person in the old régime, gets a subsidy of eighty-three pounds. The twenty saza chiefs are graded, the lowest receiving one hundred and twenty-seven pounds and the seven highest three hundred and thirty pounds a year. A total of 8116 pounds, including allowances, is paid out to the gombolola chiefs. The *miruka* chiefs receive allowances totalling eight hundred and fifteen pounds. The government also supports a system of county police composed of twenty corporals and sixty-seven constables; while it expends 6308 pounds upon clerks for saza and gombolola chiefs.[20]

A plan for pensioning the saza chiefs and giving gratuities to gombolola chiefs upon retirement has been introduced under which sums amounting to six hundred and ninety pounds a year are now paid. These sums will, of course, increase as time goes by. Unlike the Nigerian Administration,

[19] The Agreement of 1900 fixed the salary of each saza chief at two hundred pounds, but as the government wanted a more flexible arrangement, the Governor and the Kabaka entered into the Uganda (Payment of Chiefs) Agreement of 1908 (*Laws*, Vol. III, p. 468), giving the Governor and Kabaka power to reduce salaries of county chiefs upon their appointment to office, and to apply the saving to the payment of salaries to sub-chiefs, provided that the total amount of four thousand pounds guaranteed in the Agreement of 1900 shall not be reduced.

In 1920, a Uganda (Poll Tax) Agreement was made, which authorizes the imposition of a poll tax of fifteen shillings, on condition that the British Government pay twenty per cent of the tax to the Kabaka and chiefs, provided that this sum shall not be less than 11,000 nor more than 15,800 pounds. Thus the chiefs of Buganda base their income upon three sources: (1) the sums guaranteed in the Agreement of 1900, and (2) twenty per cent of the poll tax; (3) a proportion of the Development tax. (Cf. Vol. I, p. 566.)

In 1913, a Uganda (Payments by the Government) Agreement was made which provides that the Government will pay to the Kabaka and chiefs at least 10,773 pounds.

A Uganda (Payments by Government) Agreement of 1920 increased the allowances of the Kabaka, and the ministers, etc., and also provided that when the amount of the poll tax exceeded 79,000 pounds, the chiefs might apply to the government to increase the limit of payment of 15,800 pounds.

[20] Cf. Appendix F, 1926 *Estimates*.

which has a native budget paying native salaries out of part of native taxes, the British budget in Uganda assumes this burden itself and in return receives the whole of the native hut and poll taxes. The poll and development taxes in Buganda proper amount to about one hundred and twenty-five thousand pounds a year, of which the government expends 30,205 pounds on native salaries. The chiefs and ministers, as well as the Kabaka, also receive revenue from official land estates.[21]

6. *The Lukiko*

The most interesting feature of the Uganda Government, and a body which is unique in Africa,[22] is a native "parliament," called the Lukiko, composed of the saza chiefs and other native representatives. The Lukiko, the palace of the Kabaka, and the native government offices, are at Mengo Hill, about three miles outside of the township of Kampala, and are enclosed by an immense reed fence. While Kampala is the commercial center of Uganda, the British Government remains at Entebbe, twenty-five miles away, doubtless because of the undesirability of having both governments in the same place. Directly behind the entrance to this enclosure, which is guarded by uniformed native police, stands a long building with a corrugated iron roof, the Assembly Hall of the Lukiko, in front of which is a pole flying the Buganda flag. The Lukiko holds some sort of a session nearly every day of the year. At one end of the hall is a dais covered with leopard skin, upon which rests the Kabaka's throne, a great chair inlaid with gold. On the floor below the dais is the chair of the Prime Minister, the Katikiro, who usually presides over the Lukiko. Members sit on each side of this hall, and behind them are seats for native spectators. At the far end of the hall is an open space where persons whose case has been favorably heard by the Lukiko prostrate themselves, along with innumerable followers, on the floor, before the Kabaka's throne.

There are eighty-nine members of the Lukiko: the three ministers, twenty saza chiefs, three notables from each county, who are usually gombolola chiefs, and six other important dignitaries from the country at large. The notables from the counties and the country at large are appointed by the Kabaka and serve at his pleasure.[23]

Every October, the Lukiko holds a full conference attended by all the saza chiefs. Usually it is presided over by the Kabaka. It may discuss all matters concerning the native administration of Buganda and forward to the Kabaka resolutions voted by a majority. The Kabaka must

[21] Cf. Vol. I, p. 591.
[22] The closest approach is the Pitso in Basutoland.
[23] Cf. Article II, Agreement of 1900.

follow the advice of His Majesty's representative in approving or rejecting these resolutions. These resolutions are of two kinds: those affecting the country from the standpoint of the British authority, which must be submitted to the Governor for approval; and those relating to the purely internal administration of the Lukiko in regard to land, clan disputes, etc., which are, apparently, not subject to this form of control.

At one time, doubt was expressed as to whether or not the Lukiko had the power to bind natives by legislation. In 1904, that body passed a law requiring its approval before a native could transfer land to a non-native. In one particular case, a native had agreed to sell some land to a European and the British Governor had given his consent in accordance with British law. The Lukiko, however, declined to approve the transaction except subject to certain conditions. The European therefore brought his case before the High Court of Uganda, declaring that the consent of the Lukiko was not necessary since it had no legislative power. But the Judge declared: "The Uganda Agreement is in the nature of a treaty whereby Her Majesty's Government agrees to recognize the Kabaka of Uganda as the native ruler of the Province of Uganda under Her Majesty's protection and overrule and by its articles the power of its rulers are limited in various ways. As I understand the Agreement, it is not to be regarded as taking away any right or power of the Kabaka except by its express provisions; therefore, whatever powers were his before remain with him, except so far as they are expressly taken away or limited. A sovereign state has undoubtedly its power of legislating and there is no Agreement with Uganda prior to the 1900 Agreement, so far as I know, which takes away this right. . . ."

The provision that British laws apply to the kingdom except where they conflict with the express terms of the Agreement does not "oust the right of the Buganda to legislate for the native, nor can the Uganda Order in Council take away any powers from the Native Government, as the Order in Council must be read as subject to the Agreement. . . ." The court in the case quoted declared therefore that the "Native Government of Uganda has power to legislate for the subjects of the Kabaka after consultation and following the advice of the Governor."[24] The Lukiko and Kabaka cannot, however, persist in disagreement with the Governor, since the Kabaka is obliged to follow the Governor's advice.

In order to remove all doubts as to the legislative power of the Lukiko, the Governor and the Kabaka made the Native Laws Agreement in 1910, expressly confirming the power of the Kabaka and the Lukiko with the consent of the Governor "to make laws governing the Baganda in Buganda."

[24] Nasanairi Kibimka v. Smith (1908), *Uganda Law Reports,* Vol. I, p. 41.

At the beginning of each annual meeting of the Lukiko, the provincial commissioner of the Buganda Province submits questions for discussion, while the chiefs may also place items on the agenda. In the 1917 session, some forty-two resolutions were passed. These resolutions range over a tremendous ground. In 1916, a resolution was passed fixing the amount of dowry payable by poor people at fifty shillings. Another resolution was passed providing that people should kneel when the Kabaka passed in a motor car. This did not, however, meet the approval of the provincial commissioner, who said that to uncover the head would be sufficient. In 1917, the Lukiko passed another resolution that the government should not allow children to go out to work on plantations. In 1918, it passed a resolution providing that every person leaving Buganda must get a permit from his gombolola chief. In 1920, it passed a resolution that chiefs should be given second instead of third class tickets on the steamers and trains, as it was not dignified for them to ride third class. In 1922, it passed a resolution stating that fees at Makerere College were too high. Other resolutions have provided for the organization of different offices in the native government.

Between 1900 and 1925, the Lukiko passed about twenty-five native laws, approved by the Secretary of State. They are, therefore, enforceable in the courts.[25] These laws punish abortion, adultery, and fornication, cheating, the carrying of knives, and the use of indecent language, and provide for the prevention of sleeping sickness and venereal disease. Other laws concern cotton cultivation, tax collection, land, coming of age, guardianship, survey, boundaries, and *luwalo*. Some of these laws are quaintly worded, such as "the law for the people who do not pay their taxes before the end of the year for which they are due, 1910," which has been repealed. In 1925, the Lukiko passed a draft law prohibiting more than one native from riding on the same bicycle, as many accidents had occurred because men insisted upon carrying their wives on the handle bars!

This is a real native assembly. It was in existence when the Europeans came, and it functions now without any European officials. The debates are carried on in the native language, Luganda, and the laws when approved are published in the *Gazette,* as are other notices, both in Luganda and in English—a practice which other governments might well follow.

7. *The Lukiko Court*

While it thus holds an annual legislative meeting, the Lukiko also sits every day throughout the year for administrative and judicial business. As a rule, however, the saza chiefs are not present, but are represented by

[25] For the Buganda laws, see *Laws,* Vol. III, pp. 484 ff.

lieutenants who are usually gombolola (or miruka) chiefs who go to the Lukiko for a turn of three months at a time. Thus a large number of natives gain political experience. Much of the business of the Lukiko in these daily sittings is concerned with disputes between clans over lands. For these cases, the Lukiko sits as the Kabaka's court, deciding by majority vote. While a clan may appeal personally to the Kabaka, it cannot appeal to the British Government, which has recognized that the Kabaka alone should deal with the traditional organization of his kingdom.[26] The Lukiko, by virtue of the article in the Agreement of 1900 empowering it to distribute land, also has final jurisdiction in disputes over this subject.[27]

Sitting in the same enclosure, near the main Lukiko, is the Court of the Chief Justice, composed of ten gombolola chiefs. A number of miruka chiefs also attend as listeners to learn the procedure. According to the Agreement of 1900 (Article 11) the Lukiko or a committee thereof shall "be a Court of Appeal from the decisions of the Courts of first Instances held by the chiefs of counties. In all cases affecting property exceeding the value of five pounds or imprisonment exceeding one week. an appeal for revision may be addressed to the Lukiko. In all cases involving property or claims exceeding one hundred pounds in value, or a sentence or imprisonment exceeding five years, or sentences of death, the Lukiko shall refer the matter to the consideration of the Kabaka, whose decision when countersigned by Her Majesty's chief representative in Uganda shall be final. The Lukiko shall not decide any questions affecting the persons or property of Europeans or others who are not natives of Uganda."

According to the Judicial Agreement of 1905, an appeal may be taken to the High Court of Uganda: (1) in criminal matters from the Buganda courts where a sentence of death or of imprisonment exceeding five years

[26] In the Uganda (Clan Cases) Agreement, 1924, the Governor and the Kabaka agreed that no native court should take cognizance of any case relating to members of different clans, but that such matters would be settled by the Kabaka and the Lukiko, whose decision would be final. *1926 Supplement to the Laws of Uganda,* p. 273.

[27] The powers of the Lukiko over land matters have been the subjects of several judgments of the High Court of Uganda. In 1911, two natives became involved in a dispute over land, and one of them, not being satisfied by the decision of the Lukiko, appealed to the High Court. But the High Court quoted Article 15 of the Agreement, that the allotment of lands should be left to the decision of the Lukiko, etc., and it ruled that such a decision was not subject to appeal to the British Court. But the Lukiko had no power to change its decision and re-allot land. Kabazi v. Kibuka, *Uganda Law Reports,* Vol. II, 1911, p. 9.

It held, however, in a later case, that the British Court had jurisdiction in a dispute between two natives over an alleged contract in which one native promised to give any land which might prove to be a surplus as a result of a survey to another native who had originally claimed it. The High Court ruled that this was a civil dispute, and that it could entertain an appeal from the Lukiko under the Judicial Agreement of 1905. Mugwanya v. Sensuwa, *ibid.,* 1916, Vol. II, p. 207.

or of a fine exceeding one hundred pounds or of whipping of over twenty-four lashes has been passed; and (2) in civil matters, in cases where the amount or value of the subject of the suit exceeds one hundred pounds.[28]

Apart from these serious cases, where the decision of the Kabaka must be countersigned by the British official and in which the accused or the defendant has a right of appeal, the Lukiko is supposedly the final court for the Buganda kingdom. Technically, the provincial commissioner has only the power of representation or remonstrance in those minor cases in which the judgment or sentences appear to him illegal or unjust; but in actual practice, he exercises, by the tacit consent of the native government, complete revisional powers, since the native government accepts his opinion without question. For the purpose of revising these judgments, the provisional commissioner keeps a revisional order book. The percentage of revisions is relatively high. In 1924, fifty-nine out of three hundred and ten cases were revised by the provincial commissioner, but out of seventy-seven appeals, the provincial commissioner upheld sixty-five judgments of the Lukiko. In one case, he turned an acquittal into a conviction, but on this he was overruled by the High Court which held such action was ultra vires. Many revisions have been made on the ground of faulty records, and others, not because the main question of guilt or innocence was wrongly decided, but because the penalty was out of proportion to the offense. A court presided over by Christian chiefs is unusually severe on moral offenders. In one case, a woman accused a man of rape; but the evidence showed that the woman had consented, provided he took her to his house. The man got in a hurry, however, and used the field. This made the woman angry, and she hauled him before the native court, which condemned the man to jail for five years. The provincial commissioner decided that five years was altogether too much, and ordered the sentence remitted in favor of a payment of twenty shillings to the woman. On the other hand, the Lukiko fined a man guilty of forgery only one hundred shillings, which the provincial commissioner ruled was too light a punishment.[29]

The records of some of these cases are kept by Lukiko officials with amazing precision and detail. In one case "of cutting off a portion of plaintiff's land on which the borders have been already marked," the record consists of fourteen typewritten pages, containing the statements of the plaintiff and defendant, the questions and answers put to them by the gombolola court, and the judgment of this court. The record of the appeal to the saza court and to the Lukiko court, together with a map of the land in dispute, is similarly given. This case is bound in a printed

[28] *Laws*, Vol. I, p. 461. [29] *Laws*, Vol. I, p. 461.

cover and filed after the manner of any well-behaved court in Europe or America.

Altogether, the native court system of Uganda works as successfully as do the native courts in other parts of Africa. Without them, the British officials would be overwhelmed with petty but complicated disputes. These courts are, moreover, an essential foundation to the edifice of African self-government.

8. *The Lukiko Offices*

Of equal importance to these legislative and judicial duties are the administrative tasks of the Buganda Government.

When the Kabaka came of age in 1914, he reorganized the whole internal administration at Mengo, putting in European bookkeeping systems and office equipment. At the present time, there are three main departments in the Buganda native administration: (1) the administrative department, (2) the judicial department, and (3) the treasury department. The administrative department includes the office of the Prime Minister, the Secretariat, where laws are drafted and correspondence with the British Government handled, and the Land Office, a department charged with the administration of the land under the Agreement of 1900. Here land sales are registered and provisional certificates issued. The Judicial Department is in charge of the chief justice who inspects court and prison returns from each county. The Treasury Department is in charge of a chief treasurer. While the Buganda Government has no native treasury fed by a portion of the taxes and controlled by British advisers, it has created two budgets of its own without the assistance and beyond the control of the British Government.

9. *The "Luwalo" Budget*

The first of these budgets is composed of payments made to commute the obligation of thirty days' free road work a year, called *luwalo*. This budget is under the control of the chief treasurer of the Lukiko. Luwalo was an obligation which the Kabaka imposed upon his people in olden times—the obligation to maintain the roads between the different counties and the capital. The Agreement of 1900 provided that all main public roads traversing the kingdom should be maintained in good repair by the chief of the county through which the roads ran. "The chief of a county shall have the right to call upon each native town, village, or commune to furnish labourers in the proportion of one to every three huts or houses, to assist in keeping the established roads in repair, provided that no labourers shall be called upon to work on the roads for more than one month in

each year." [30] The British Government at present entrusts work on the minor roads to the Buganda Government. Main roads are, however, maintained by the British Public Works Department.

In 1920, the Kabaka and Lukiko enacted, with the approval of the British Government, a Luwalo Law, exempting all saza, gombolola, and sub-chiefs (if the latter had ten taxpayers under them) from luwalo. Commoners over eighteen were made liable to thirty days of luwalo labor. Four classes were, however, authorized to commute this work with a payment of ten shillings. These classes were: (1) men working on a contract of three months or more; (2) men regularly employed as engine or motor drivers or as certified rubber tappers; (3) men engaged in labor or trade on their own behalf, as approved by the chiefs and district commissioners; (4) Abatongole, Abasigiri, Ababeze, and chiefs who own one or more square miles of land.[31]

On paying the tax or on completing the work, every man is given a ticket on which the nature of the work and of the locality is stated. A man not exempted by the above provisions is entitled to employ a substitute.

Originally, it appears that the practice of commuting luwalo was open to a number of abuses. In 1920, the Uganda Development Commission, composed of Europeans appointed by the Governor to study how the protectorate could be developed, declared that: ". . . no account is kept of receipts and expenditures, and it may be questioned if labour is hired and paid except in a few isolated cases. Meanwhile, the quality of work done has steadily declined, the condition of the roads has deteriorated, and the delay in the erection of native Government buildings is almost a scandal." [32]

These criticisms, it appears, led the Lukiko to enact supplementary legislation in 1921 improving the accounting side of commutation; while the Kabaka made other reforms.

About one-third of the able-bodied men of Buganda now commute this service by the payment of ten shillings. These sums are collected by the gombolola chiefs and sent to the saza chiefs. The county chiefs then turn the money over to five district luwalo inspectors, appointed by the Kabaka, and under the supervision of a provincial luwalo inspector. These inspectors send in sixty per cent of the luwalo money to the central government at Mengo, while the remaining forty per cent is retained by the district inspector and expended for local improvements under the

[30] Article 14, Uganda Agreement of 1900.
[31] Luwalo Law, *Laws*, Vol. III, p. 506.
[32] *Report of the Uganda Development Commission*, 1920, p. 15.

supervision of a Finance Committee upon which the British district commissioner is represented. The Finance Committee must draw up annual estimates as to the amount of money and the number of men required for local work during the year. The estimate is then sent in to be approved by the Lukiko Finance Committee, composed of the three ministers and the chief luwalo inspector. This latter inspector frequently goes on tour inspecting the work of the other luwalo inspectors in connection with roads and buildings. British officials also check the cash books which control the receipts and expenditures of the luwalo estimates. The central funds, comprising sixty per cent of the total tax, are handled by the Kabaka and his ministers, without any control or audit being imposed by the British authorities.

In 1925, the luwalo estimates had a revenue of about five hundred and eighty thousand shillings, of which three and forty-eight thousand shillings were expended at headquarters, and two hundred and thirty-two thousand on the districts. The local sums are used for the construction and maintenance of roads, saza court houses, and dispensaries, the payment of saza and gombolola clerks, headmen, and building inspectors, and for the purchase of tools and office furniture.

About one hundred thousand shillings out of the three hundred and forty-eight thousand shillings obtained by the central government are expended on "personal emoluments." The provincial luwalo inspector receives an annual salary of six thousand six hundred shillings, while four of the district luwalo inspectors receive two hundred shillings per month. The fifth receives a hundred and fifty.

These funds also pay the salary of the head sanitary inspector and two other sanitary inspectors, and of a number of road headmen. About thirty thousand shillings a year are expended in maintaining the Lukiko police and the Lukiko prison.

Furthermore, grants totalling thirty thousand shillings go to missionary societies, seven thousand shillings to hospitals in the counties, and seven thousand shillings towards payment of survey fees for poor people. The 1925 Estimates also appropriated sixty thousand shillings for a new house for the Kabaka, about 5200 shillings for the upkeep of motor cars belonging to the Lukiko and the Kabaka and 12,500 shillings for repairs to various enclosures. Petrol for motor vehicles of the Luwalo inspectors and of chiefs amounted to nearly thirty-four hundred shillings. Stationery, vouchers, and revenue tickets for counties cost the treasury 27,240 shillings, while ten thousand shillings are set aside as an entertainment allowance for the chiefs. Five thousand shillings go as an "alimentary allow-

ance for certain of the Kabaka's relatives," while 7110 more go as upkeep for the Kabaka's entertainers.

Some of these items look suspicious, especially when we remember that the expenditure of these funds is not subject to any outside audit. It would appear, also, that the percentage of the luwalo money expended on the central headquarters is disproportionate. Money raised from a commuted road tax should be returned for the most part to the district where the labor was to have been applied.

10. *The Second Budget*

The Buganda Government has a second budget which, in 1925, had an income of 152,347 shillings. The two largest items in this budget consist of forty-six thousand shillings derived from the fees and fines of the saza and gombolola courts, and seventy thousand shillings from market dues collected at every native market throughout the kingdom. This budget also receives fees from the registration of native land, beer licenses, and administrative fines. Nearly thirty-four thousand out of the one and fifty-two thousand shillings collected are expended on maintaining the offices of the three ministers and the Kabaka, while about nine thousand shillings are expended on the Lukiko prison, about nine thousand four hundred more on stationery for the counties, and five thousand five hundred shillings on celebrating the Kabaka's birthday and in entertaining Lukiko guests—items which are, to a certain extent, duplicated by the luwalo expenditures. Forty-eight thousand four hundred and forty shillings are returned to the landowners and market collectors as a share in fees collected by them. The only items of a really social nature are four hundred shillings for the leper settlement, and four hundred and forty shillings as a grant for Makerere college scholarships.

It is a remarkable fact that these two budgets have come into existence without the assistance, consent, or control of the British authorities. Here is a government expending more than seven hundred thousand shillings a year in complete independence of even an auditor. Neither of these two Estimates is even submitted to the approval of the Lukiko before going into effect. The Buganda Government has probably been more free in this respect from European control than any other government in Africa.

While the cost of maintaining the administrative machinery of the kingdom is necessarily great, it should be remembered that the salaries of the native officials are paid not out of these budgets, but out of the British treasury. It therefore appears that largely because of the absence of the accounting control to which every European business and govern-

ment submits, the Buganda Estimates have expended an unduly large proportion of revenue upon overhead, thereby cutting down amounts available for promoting the welfare of the people, for which the Transkei and the Nigeria treasuries are doing so much.[33]

Realizing the importance of a form of audit, the Kabaka and the British Government have now agreed that a British assistant auditor and an assistant district commissioner should be assigned to the Lukiko to give advice in regard to these highly technical matters of finance.

Sir William Gowers, the present Governor, who served as Lieutenant Governor of the Northern Provinces of Nigeria, where the native treasury plan has been carried to its highest development, has a great opportunity, in cooperation with a highly intelligent Kabaka, to work out a Buganda treasury system. This treasury should be based upon the present Lukiko budget, but should be composed of the luwalo money, court fees, and a proportion of the taxes paid by the Buganda people to the British Government. The salaries of the Kabaka, his ministers and chiefs should no longer be paid by the British treasurer, but should be paid out of this consolidated fund. The annual Buganda Estimates should be drawn up as are the Luwalo Estimates now, and the money expended by the Kabaka and his ministers, subject to British advice and to the installation of the pre-audit system. It might be desirable, also, to have the Lukiko vote the annual Estimate. The Buganda people are among the most intelligent as well as the least detribalized natives of Africa. The male population, unlike that of Basutoland or of the Transkei, is not obliged to go out for half the year to European centers far away from its home. This may account for the growth of a high degree of civic and national pride. It is possible that if the native treasury system is introduced in Buganda, it will be more successful than in any other part of Africa. It can be introduced, of course, only by an agreement between the Kabaka and the British authorities.

11. *Demand for Reform*

The educated native has challenged the supremacy of the aristocratic principle in Uganda as well as elsewhere. Following the World War, a Young Buganda Association, one of whose purposes was to increase the participation of the young intelligentsia in the government was organized. As a matter of fact, it appears that this organization was more anti-European than anti-Kabaka. At present, it is enjoying a dormant existence. This element introduced a resolution in the Lukiko in 1918 to the effect that the "intelligent young men interested in the welfare of the country" should be allowed to select a county or gombolola chief to represent them

[33] Cf. Vol. I, pp. 96, 694.

in the Lukiko; the organization also asked that the young men should form a committee called the Lukiko of the *Bakopi,* or Peasants' Parliament. In defeating this resolution fifty-one to forty-four, the majority of the Lukiko took the position that the young men were already represented through the younger chiefs. As this close vote would indicate, it is not improbable that a more democratic element will be introduced into the Lukiko in the future, and that, for example, the gombolola chiefs will be elected by the people instead of being appointed by the Kabaka. As we have seen, the Buganda system is already democratic in the sense that peasants' sons are eligible to become chiefs. If further changes are to be made, they should be changes genuinely asked for by the people and chiefs, and not imposed by the British authorities.

There is a feeling of anxiety among some of the leading Baganda that the British authorities wish to terminate the Agreement of 1900. Part of this anxiety is due to the dispute over tithes, discussed in the next chapter, and part to the government's policy of changing around chiefs and trying to develop a civil service out of these native functionaries. Moreover, in 1920, the Uganda Development Commission declared: "The Lukiko, or native government of Buganda, appear to have failed to appreciate the progress which the country has made. . . . The powers of the chiefs over their men must be strengthened, and in this the Government can render valuable assistance by exercising a wide discrimination in selecting candidates for appointment." It believed that saza chiefs should be transferred more frequently. The Commission continued: ". . . We feel it our duty to state, also, that the progress of the Buganda province is retarded by the existence of the Uganda Agreement, 1900, which in certain respects is entirely unsuitable to present-day needs. . . ." [34]

This statement represents a typically European point of view. It is difficult to see how the British Government could terminate with a clear conscience an agreement which has been in force for twenty-seven years. There does not appear to be any likelihood of this action, unless the Buganda Government itself flagrantly fails to live up to its terms—which is an equally remote possibility.

[34] *Report of the Uganda Development Commission,* paras. 325, 326.

CHAPTER 33

LAND POLICY IN UGANDA

In the old days, the whole of the land of Buganda belonged ultimately to the Kabaka, and title could arise only when he bestowed it. Each of the clans, to which every Muganda belongs, held family estates which were called *Butaka* land, and the people settled on these estates were called *Bataka,* which means owners of the soil. Branches of clans frequently extended their estates by burying their dead in a certain place. When a family had thus buried its dead for three or four generations and had not been disturbed by the chief or king, the land generally was regarded as freehold or butaka. The king would not then ordinarily disturb the clan in its occupancy.[1]

1. *Buganda Land Tenure*

It appears that this system of Butaka holding was very old. But gradually the early Kabakas acquired the habit of sending their representatives throughout the country to collect taxes and perform other administrative duties. These representatives were called *Batongole;*[2] and to provide for their needs, it appears that the Kabaka from time to time would take pieces of Butaka land and give them to the Batongole. Hence a second type of tenure—the Butongole tenure—arose. But while the Butaka land stayed within the clan permanently according to the clan rules of succession, the Butongole holding was merely a life estate which the Mutongole held only so long as he was an official.[3] All of the Butongole held their land directly from the Kabaka. The system thus differed from the subinfeudation found in European feudalism.

The clan did not hold its lands—the Butaka lands—under a communal system. They were held by the head of the clan. He, the Mutaka, was a feudal lord with power of life and death over the people on his land; the peasants or *bakopi* who occupied it were tenants who were obliged to perform certain duties for the landlord. A Mutaka could not, under native law, give or sell any part of his land to a member of another tribe.

[1] Roscoe, *The Baganda, cited,* p. 135. Judge Carter expressed a somewhat different view.

[2] The singular is *Mutongole.*

[3] Cf. Judge Carter's article, *cited.*

2. *The Land Settlement,* 1900

Civil war which broke out in the reign of Mwanga and which lasted intermittently until the coming of the British disorganized these butaka holdings. To reward the Kabaka and the regents for supporting the British Government in its trouble in the Sudanese mutiny of 1871, Mr. (later Sir) Harry Johnston, the British special commissioner, agreed that the Kabaka should have fifty square miles of land and the regents five square miles each. The rest should go to the British Crown. It appears that Sir Harry Johnston was not familiar with the rule that in a protectorate, the residual rights in the land remained with the native sovereign instead of passing to the protecting power. It appears also that he was not familiar with this complicated system of butaka and butongole holdings. For when the regents informed him that there were about a thousand chiefs in the country, he declared that they should be given some eight thousand square miles.[4] Now all of these chiefs possessed their holdings under Butongole or Butaka tenure, and any alteration could be accomplished only with great difficulty. These considerations did not, apparently, rest heavily with the Commissioner, who believed that the British principle of private property should be bestowed upon these native people. This opinion Captain Lugard shared. The departure was of "immense importance;" and credit was due to "Mr. Johnston" for being the first to "introduce this great fundamental principle of civilization into savage Africa." [5]

Moved by these considerations, the British authorities proceeded to divide up the land among native owners and to bestow unoccupied land upon the protecting power, as Crown land. In the case of the kingdom of Buganda, the land settlement was embodied in the Principal Agreement of 1900.

In this agreement, the Kabaka ceded 10,500 miles of waste and forest land to the British Government,[6] out of a total area estimated at 19,600 square miles. Of the remaining nine thousand one hundred square miles, it was provided that nearly five hundred square miles should be set aside as the private property of the Kabaka and other members of the royal family; three hundred and twenty square miles should go to the saza chiefs, each of whom should receive eight square miles as private property, and eight square miles as an official estate. The three regents should receive

[4] Cf. paras. 5-7, *The Lukiko's Reply to the Question of Allotment of Land in Buganda,* March 18, 1922.

[5] F. D. Lugard, *The Rise of Our East African Empire,* London, 1903, Vol. II, p. 646.

[6] Of this, 1500 were forests.

a total of ninety-six square miles similarly divided between private and official estates. The bulk of the land—eight thousand acres—would go to one thousand chiefs and private land owners who "will receive the estates of which they are already in possession" and each of which was thus estimated to have an average area of eight square miles.[7]

The agreement provided that the allotment of these eight thousand square miles among the thousand owners would be "left to the decision of the Lukiko, with an appeal to the Kabaka." [8] In order to distribute the land, the Lukiko established the Land Office mentioned in the last chapter.

It appeared that after the claims of occupiers had been heard, a balance of twelve hundred miles out of eight thousand remained undistributed. The Lukiko proceeded to divide this up among the Kabaka, the regents, the saza chiefs, and the sub-chiefs—an arrangement approved by the High Commissioner.[9]

In addition, Sir Harry Johnston promised in 1900 to give the three regents forty-five square miles.[10] The holdings thus staked out as a result of this agreement were called *mailo* land.

Moreover, inasmuch as the Lukiko which made these various allotments was composed largely of chiefs, it made land grants to these dignitaries with great liberality. But in order to check a growing tendency for the

[7] Article 15 of the Agreement of 1900. A maximum of ninety-two square miles was allotted to the three missionary societies in Uganda in trust for the native churches.

Since then, the missions have rented out much of it to native tenants at ten shillings for each holding of three or four acres, which has been a considerable source of revenue. Missions have also, according to the government, been illegally renting lands granted them on temporary occupation leases. In Busoga, the missions claim lands which chiefs gave them in the days before the British occupation, but the Secretary of State has refused to recognize the validity of these grants. This seems to be a questionable decision.

[8] The agreement also provided that the rights to all minerals found on private estates should belong to the native owners—a principle which is similar to that found on the Gold Coast. Such minerals might be exploited subject to a ten per cent ad valorem duty. Mineral rights over waste and uncultivated lands are vested in the British Government, while the ownership of forests not included within the limits of private property are likewise vested in the British Government.

In 1907, a Forest Agreement was made between the British authorities and the Buganda Government, which provided that isolated pieces of forest land which did not exceed one-half a square mile might be included in native estates; it likewise defined the limits of seventeen government forests, which represented the fifteen hundred square miles of forests granted in the Agreement of 1900. *Laws,* Vol. III, p. 463. The Lukiko has imposed no restrictions upon the use of private forests with the result that already one such forest near Entebbe has been cut away altogether for use as firewood.

[9] The Kabaka and his chiefs received one hundred and ninety-eight square miles, the saza chiefs one hundred and eighty-nine, and the sub-chiefs six hundred and thirteen, a total of one thousand square miles. The remaining two hundred were eventually distributed. *Ibid.,* Vol. III, p. 460.

[10] *Ibid.,* Vol. III, p. 460.

land to fall into a few hands, the Lukiko passed a Land Law in 1908 [11] which provided that no person in the protectorate could hold more than thirty square miles of mailo land, except with the approval of the Governor and of the Lukiko. But this limitation did not apply to inherited or official mailo.[12]

3. *Titles*

Presented with these huge areas of land, some chiefs started to sell part of their holdings to non-natives, chiefly to Europeans—a practice which had been in violation of native law. In order to check this tendency, the Lukiko passed the Land Law of 1908 which, while it authorized the sale of land to natives within the protectorate, provided that the owner of a mailo could not hand over his land to a non-native except with the consent of the Governor and of the Lukiko. Neither could a mailo owner lease his land to a non-native for longer than one year without similar approval.[13]

Instead of one thousand applicants for the eight thousand square miles, two thousand applicants put in their appearance, and the Lukiko Land Office actually divided up the land between two thousand holders, each of whom received a provisional certificate. As a result of the subdivision and sale of these holdings, there are about ten thousand land owners in Buganda to-day.[14] It is believed that this process of subdivision will go on until there are twenty thousand land owners in Buganda.

In marking out these allotments, a number of difficulties presented themselves. Conflicts over the territory arose which the native Land Office attempted to settle. In marking out estates in case of a dispute, the Lukiko would send out a committee to make a ruling, composed of three

[11] *Laws,* Vol. III, p. 486.

[12] Despite these limitations, it appears that by means of "dummies," chiefs have acquired areas in excess of these limitations. The Uganda Development Commission, a European body, reported in 1920 that cases had occurred "where a native of means has lent money to another on the security of his land, and has foreclosed immediately the repayment became due." It continued: "In one instance, the amount was Rs. 2400, *i.e.,* 160 pounds, and the area forfeited was two square miles."

The commission reported that in some cases a mailo owner holding fifty square miles had done nothing to develop the land. It pointed out that under native tenure land was held from the king only on condition that it be used. But as a result of the system introduced in the Agreement of 1900, these obligations were removed. It believed that a tax on undeveloped land should be imposed. Cf. *Report of the Uganda Development Commission,* 1920, p. 29. It thus appears that Uganda has the same land problem as Kenya, except that the landlord is native instead of European. In both cases, however, the problem has been created by the European authority.

[13] Similar provisions had been made in the Land Transfer Law of 1904, which was the object of the court discussion in Vol. I, p. 580.

[14] Ten thousand and two hundred (10,200) provisional or shortage certificates have been issued. *Annual Report, Land and Survey Department,* 1924, p. 9.

representatives, one from the Roman Catholics, another from the Protestants, and the third from the Mohammedans.

In the Land Survey Law which it passed in 1908, the Lukiko provided that anyone who had not lodged his application for a provisional certificate before the end of 1909 should be deemed to have waived all claim to an allotment.[15]

The British Government has agreed to replace these provisional certificates issued by the Lukiko with permanent certificates of title, following the completion of a survey conducted by the British Land Department. This survey was started in 1904. By the end of 1924, only about half of the Buganda kingdom had been surveyed; and it is believed that twenty years more will be necessary to complete this work partly because of the difficulty in getting labor to clear boundaries. Up to the present time, the British Land Office has issued a total of 7615 final certificates of ownership to Buganda mailo owners.

Some of the difficulties in making this survey are caused by the fact that land held under provisional certificate issued by the Lukiko Land Office usually overlaps land held by another mailo owner. When such cases occur, the British Land Office issues shortage certificates entitling one holder to acquire the balance elsewhere in land which has not been surveyed and definitely allotted. Sometimes natives holding provisional and shortage certificates sell the land represented by the certificate, which adds to the confusion. Transfers of shortage and provisional certificates take place at the Lukiko Land Office. In checking up these transfers, the British officials have found that only twenty per cent are entered accurately.

With the completion of the survey, the British Land Office will have given to every mailo owner an individual title to his land, and the Baganda will then enjoy the great boon of European property tenure.

Some of the difficulties involved in converting land held under native tenure into land held under a system of European titles have been mentioned. But the greatest difficulty of all remains to be discussed—a difficulty known as the Butaka question.

4. *The Butaka Question*

Before the coming of the Europeans, as we have seen, most of the land was held by the clans, while certain other lands were held by the chiefs as official estates in which they had a life interest. From time to time, the Kabaka would take parts of the Butaka or clan land and give it to the Batongole. In the old days, the balance between these conflicting sets

[15] *Laws*, Vol. III, p. 491.

of land owners was held fairly even. But in the Agreement of 1900, Sir Harry Johnston, apparently in ignorance of this division, agreed that the Lukiko should distribute the land among its occupiers. Now the Lukiko was dominated by the chiefs or the Batongole, and naturally they were tempted to divide up some of the Butaka land among themselves. Their greed had already been stimulated by the fact that the British had given them private grants of land when they had been accustomed merely to official estates which they relinquished with their office.

Between 1900 and 1926, members of the Bataka community complained that the Lukiko had taken their lands from them. In a petition to the Kabaka in 1922, they declared that the three regents had allotted their lands to themselves and to their friends. The Bataka protested: "But the said regents . . . confiscated practically all our hereditary (Butaka) estates through there being no effective opposition whatever against them as at that time you, our Kabaka, the Supreme head of Bataka, who would have defended our interest were in your minority." [16]

After making careful inquiries into the matter, the Kabaka handed down a decision in which he said: "I find that there is truth in what you have placed before me. . . ." It was true "that certain Butaka land was confiscated," though by no means all. But he could not order the return of this land which was held under title both from the Lukiko and from the British Government—a move "calculated to throw into confusion the existing position of land and of mailo in the whole kingdom." He would, however, order a law to be passed providing that if any Mutaka could prove that he had been deprived of his land without reason, the Lukiko would give him land in exchange elsewhere. But the Lukiko, the members of which already held the land, did not take kindly to the suggestion; they voted down the law by ninety-one against thirty-one. In a letter to the Bataka leader, the Kabaka said: "Therefore I have nothing further to do for you in this matter."

The native government having declined to take action, the Bataka community now appealed to the British authorities. In 1924, the government appointed a commission to look into the question. The position of the British Government was, however, a difficult one. It had been responsible for the state of affairs which had arisen because of its insistence upon the principle of individual tenure in the Agreement of 1900. Its hands were now tied by the fact that in that agreement it maintained that the Lukiko should have full power to divide up the land. The Buganda land owners would not hear of changing the agreement; and the British Government

[16] This petition is printed in a pamphlet, *The Baganda Land Holding Question,* prepared by the Bataka Community, Kampala, p. 19.

could not abrogate it without violating a most sacred obligation—an act which would have made the system of native administration unworkable.

Through negotiations with the Kabaka, the government nevertheless made it clear that some action in the Butaka question should be taken.

In the fall of 1925, the Lukiko agreed to the extent of passing a "Law to safeguard the proper maintenance of Butaka Lands." It provided that every Mutaka had the right to settle on the burial grounds of his Butaka, even though owned by another; but he should be liable to pay rent to his landlord and to do all the other duties required of other tenants. No land owner could eject any Mutaka from such land except for failure to pay rent or to perform these duties.[17]

While this law gave security of tenure to Bataka living on land held by the fortunate "allottees" under the 1900 Agreement, it did not limit the exactions which these allottees could make of the occupiers. As we shall see, these exactions are heavy. Consequently, the British Government and the Bataka community were not satisfied with the proposals of the Lukiko. Discussion continued until the fall of 1926, when it was announced that although the Bataka grievances were in the main legitimate, the British Government had decided not to interfere with the freehold titles granted in 1900.

Most of these difficulties in regard to Buganda land can be traced back to the provisions of the Uganda Agreement in regard to land, as a result of which chiefs acquired much land which formerly belonged to clans. A title from the British Government in their eyes was a token that they were free of the obligations which native custom had imposed upon them in the use of the land in the past. The experience of Buganda, together with that of other parts of Africa which have tried similar experiments [18] shows that while individual tenure may eventually take the place of native tenure, a European government may commit grave injustices by forcing this development upon a native community, especially when it places the responsibility for parcelling out lands among individuals in the hands of a single class.

5. *Transfer Restrictions*

Once given titles to native land, natives are not allowed to sell to non-natives except subject to restrictions. The Land Transfer Ordinance, 1906,[19] provides that no native shall transfer his interests to a non-native

[17] The law also provided that Butaka land should not be alienated to natives outside the clan to which the land belonged, except with the consent of the head of the clan. In case of any surplus estates of Butaka land being returned to the Lukiko Land Office, the Lukiko should allot such estates to the recognized Butaka.

[18] Cf. Vol. I, p. 1030, for the French experiment.

[19] *Laws,* Vol. II, p. 798.

without the written consent of the Governor. When such consent is given, the native must transfer the land to the Crown, and the Crown then transfers it to the non-native.[20] Two such cases of transfers were reported in 1924. In the same year, there were fifteen cases in which natives leased their lands to non-natives.[21]

It appears that this legislation in regard to the transfer of land between natives and non-natives did not apply originally to mortgages. But the practice arose not only in Buganda, but elsewhere, of mortgaging lands owned by natives to non-natives, in order to get money for ginning and the growing and marketing of cotton. Thus Indian cotton buyers would advance to native buyers large sums of money secured upon the basis of a mortgage. If the native defaulted, the mortgagor would go to a British court, which would order a foreclosure. As a result of this process, a considerable amount of native land was passing into the hands of Indians and Europeans. To stop this process of improvident borrowing, the government issued regulations in 1924 to the effect that native land could not be attached under the decree of a High Court. The Buganda Lukiko passed a similar law in regard to Buganda. These regulations brought forth the complaint of the Indian Association that they had led to increased defalcations which Indians were powerless to recover. While the court would sentence a native to a few months' imprisonment, this was not an adequate remedy. Nevertheless, it appears that this policy of making advances to native agents is one which should be discouraged as much as possible.[22]

6. *Rent and Tithes*

While at present, there are about ten thousand native land owners in Buganda, there are two hundred thousand peasant farmers who live at the sufferance of the lords of the soil. These peasants, under the old régime, occupied land belonging to Butaka owners or the chiefs, subject to certain tribal obligations which included the payment of an annual tribute or rent. Originally, it does not appear that the principle of tribute was abused. But the Agreement of 1900 broke down the tribal idea that the owner of land was under obligations to the clan, to his tenants, and to the Kabaka. At the same time, the opening of European markets to Buganda produce incited the land owners to increase the exactions from their tenants. Some time ago, it was agreed that peasants might commute the rent for

[20] Cf. Land Office Leaflet, No. 2 of 1913, "Purchase of Native Land by Non-natives."

[21] Cf. Tables G and H, *Annual Report of the Land and Survey Department*, 1924. Twelve applications to erect ginneries on native land were not approved.

[22] Cf. Vol. I, p. 813, Vol. II, p. 521, for abuses on the Gold Coast and in the Belgian Congo.

their land which they had formerly paid in labor or in produce to ten shillings a year. But with the growth of the cotton industry, the land owners soon got into the habit of exacting from the peasant not only the ten-shilling rent but also a share of the produce. As a result of these various exactions, a number of Buganda landlords, holding twenty-five to fifty square miles of land occupied by several hundred peasant farmers, are reported to have had an annual income running into thousands of pounds a year. The greater the production of cotton, the greater becomes the landlord's tithe, which may explain why native chiefs have energetically promoted native cotton production. Moreover, according to Buganda custom, 28 per cent of the court fees and 30 per cent of the market dues are usually returned to the owner of the land where the court and market are located.

In 1926, the Lukiko passed an act entitled "The Law of Rent and Rates and other dues chargeable on crops and produce grown by tenants on land belonging to their Land Owners," which provided that every tenant residing on land was liable to pay an annual rent of ten shillings to his landlord. A tenant might work for the landlord for a period of one month in lieu of this rent. A tenant cultivating valuable crops was also liable to pay *nvujo* amounting to: (1) one pound out of every square yard of cotton cultivated, which means, it seems, that the tenant should give the landlord thirty-five out of every hundred pounds of cotton; (2) two pounds out of every ten pounds of coffee; (3) one pound out of every ten pounds of other produce. In addition to the *nvujo,* the land owner should also receive from his tenant "some percentage on all kinds of produce," a percentage which was unlimited by the law. The law said: "Every right over the land shall be vested solely in the owner of the land." When a tenant wishes to build a house, he should first apply to the landlord to cut the necessary timber. The land law closed with the significant clause: "As Buganda becomes more prosperous and wealthy, this law shall be liable to re-consideration." This bill thus gave the seal of validity to the present tithe, and authorized future exactions. For this reason, the British Government, which has a veto over Lukiko acts, declined to approve it; and hence native courts cannot enforce these exactions, although landlords presumably continued to levy them by stealth.

The Buganda peasant is not only subject to these tithes, but he has no security of tenure. He may be and frequently is dispossessed by a landlord when the latter sells his land to another native, or, with the consent of the government, to an outsider.

After further discussion, the Buganda Government with the approval of the British Government enacted in 1927 "The Busulu and Nvuyo

Law" which provided that the Muganda peasant shall not be evicted from land by the Mailo-owner "save for public purposes or for other good and sufficient cause and unless a Court having jurisdiction shall have tried the case and made an order of eviction,"—subject to appeal. Until such an appeal has been dealt with the peasant "shall remain in undisturbed possession" of his plot of land. The law also regulates the payment of rent and cash commutation for Nvuyo. Breaches of the law may be punished by a fine not exceeding 100 shillings or in default of payment, of three months imprisonment.

7. *Crown Land*

In agreements between the British Government and the native states of Toro and Ankole, it was decided that "all the waste and uncultivated land which is waste and uncultivated at the date of this Agreement" shall belong to the British Government.[23] These agreements also set aside in the case of the Kabaka and other native officials of Toro estates aggregating about two hundred and twenty square miles, and in the case of similar officials in Ankole about two hundred square miles. They did not attempt, however, to divide up the remainder of the land of the country between the smaller chiefs and land owners as was done in Buganda.

In the Agreement of 1900 with Buganda, the British Government supposedly acquired some 10,500 square miles as Crown land.[24] It acquired all waste and uncultivated land in Toro and Ankole. It holds similar rights in other parts of the protectorate as a result of conquest.[25]

The definition of Crown land has undergone the same evolution in Uganda as in Kenya. Under the Land Regulations of 1897 the Governor could not grant certificates in respect of any land which was cultivated or regularly used by any native or native tribe. But this provision was gradually stricken out by the Crown Land Ordinance of 1902, the Crown Lands (Amendment) Ordinance of 1910,[26] and by the Crown Land

[23] Article 4, Toro Agreement, *Laws*, Vol. III, p. 512. Article 4, Ankole Agreement, 1901; *ibid.*, p. 520.

[24] Cf. Vol. I, p. 591.

[25] This problem of Crown land does not arise, apparently, in Buganda Province, despite the fact that the government was granted 10,500 square miles of land there. Fifteen hundred (1500) miles of this territory was forest land which has been made into forest reserves. In 1913, the British Government entered into the Allotment and Survey Agreement under which it authorized the Lukiko to meet unsatisfied claims to land out of surplus estates or out of Crown land. *Laws*, Vol. III, p. 471.

It was the opinion of the Uganda Development Commission of 1920 that as a result of the construction of this agreement, "the natives are in possession of practically the whole of the cultivable area." *Report, cited*, para. 174.

[26] The 1910 ordinance provided as follows: "The Governor may sell or lease

Declaration Ordinance of 1922. At present, Crown lands are defined as follows: "All lands and any rights therein in the Protectorate shall be presumed to be the property of the Crown unless they have been or are hereafter recognized by the Governor by document to be the property of a person or until the contrary thereof be proved as hereinafter provided." Any person claiming an interest as against the Crown in any area should lodge a claim with the Land Officer within twelve months.[27] It is therefore clear that all land occupied by natives who do not hold a title, such as the land certificates issued to the Baganda, belongs to and is at the disposal of the Crown. Under the Uganda Order in Council of 1902 the Governor is authorized to alienate Crown land.

As a result of these ordinances, the natives of Uganda apart from the Baganda hold their land at the mercy of the government. By virtue of the Crown Lands Ordinance, it can alienate land, whether inhabited by natives or not. The natives have not complained of this situation because most of Uganda is a tropical country where the whites have not attempted to settle, and where the demand for land consequently has not been great. The government has alienated only 76,000 acres of land to Europeans and Indians. Nevertheless, the present situation is unsatisfactory, particularly in view of the drive of the white settlement school throughout East Africa. Some Europeans believe that the Ruzenwori Highlands of Uganda are suitable for European occupation.

For some time, the Uganda Administration has considered the advisability of giving native occupiers a higher degree of security than they now possess. At one time, the provincial commissioners recommended that native lands should be demarcated from Crown land upon the basis of eight acres per native. In 1913, a Land Settlement Commission,[28] which included no native commissioners, declared that an average family in the

areas of land upon which there are natives, but natives actually in the occupation of land comprised within the area sold or leased at the date of such sale or lease shall be permitted as of right to continue in occupation of and to cultivate such land until such arrangements as shall be approved in writing by the Governor or other officer deputed by him shall have been made and carried out for the removal of such natives to other areas equally suitable for their occupation, or for the payment to them of compensation. Provided always that should such natives be permitted to remain upon an area of land sold or leased after they have been offered an opportunity of removal or have been compensated, such natives shall be deemed to be tenants at will of the owner or lessee of the said land."

Neither the Ordinance of 1903 nor the amendment of 1910 is printed in the *Laws of Uganda,* 1922, because they are apparently to undergo revision. The 1903 Ordinance is printed in *Laws,* 1910, p. 365. The 1910 Ordinance is inserted in the *Ordinances,* 1910, No. 13.

[27] Crown Lands (Declaration) Ordinance, 1922, *Laws,* Vol. II, p. 800.

[28] *Reports of the Committee appointed to consider the question of Native Land Settlement.* (2583), Entebbe, 1914, p. 1; Appendices A and B.

protectorate, consisting of five individuals, actually cultivated from one to two acres of land. Since land is left fallow for a certain number of years, a larger acreage, estimated at four acres, was necessary for each family. Making allowances for uncultivable land, the commission believed that between a fifth and a sixth of the land in the Ankole, Toro, Bunyoro, and Busoga districts should be divided up as official and private estates between the chiefs—a dangerous system in view of past experience.

Apparently believing that this plan was not sufficiently liberal,[29] the Uganda Administration worked out a scheme whereby four-fifths of the land in the country would be definitely allocated as native land, and one-fifth would remain Crown land. It is understood that a Crown Lands Ordinance to this effect is being drafted at the present time. Under this plan, the natives will have about five times the amount of land they now occupy, which will leave room for population increases for many years to come. In the light of the difficulties arising out of the allotment of land between natives in Buganda, the British Government will presumably see to it that these holdings will not become concentrated in the hands of a few chiefs to the detriment of traditional occupiers.

Not more than one-fifth of the land in any administrative district shall, under any circumstances, be alienated to non-natives; and in those districts where there is insufficient land for native requirements, there shall be no land alienated whatever. Alienations of the area set aside as Crown lands may take place only at the recommendation of the local land board in each district composed of the government commissioners and three members nominated by the local Lukikos.

The British Administration also anticipates the time when each county or gombolola court will be required to keep registers in which individual claims to land by peasants who have made permanent improvements on their holdings will be recorded and which will afford peasants security of tenure.

[29] Cf. the Minority report of the Land Officer, *Ibid.*, p. 9 and the correspondence printed in the *Appendices* to this *Report*, 1915.

CHAPTER 34

POPULATION, HEALTH, AND EDUCATION

1. *Vital Statistics*

ALTHOUGH the population of three of the provinces of Uganda is relatively dense, ranging between thirty-five and forty-three people per square mile, there is some evidence that until recently this population has decreased. It is estimated that in the days of King Mutsea the Buganda kingdom contained a population of three million.[1]

At present, this kingdom contains only about six hundred thousand people. Undoubtedly the former figure, which may have included the population of the kingdom which paid tribute to the Kabaka, is an exaggeration. Nevertheless, there are strong reasons for believing that the population of Buganda has declined since the European occupation. At present, each village chief in the five native states of Buganda, Busoga, Bunyoro, Ankole, and Toro is obliged to report deaths and births.[2] While any such system is liable to great inaccuracies it appears that deaths, which are of more common knowledge, are reported with greater certainty than births, so that the statistics err, if they err at all, in the direction of population decreases. Between 1918 and 1924, these statistics showed the following state of affairs:

INCREASE OR DECREASE OF BIRTHS OVER DEATHS IN UGANDA DURING THE LAST SEVEN YEARS.[3]

Year	Buganda	Busoga	Bunyoro	Ankole	Toro	Total Increase	Total Decrease
1918	— 3,873	+ 1,553	— 2,851	+ 776	+ 1,657	—	2,738
1919	— 5,709	— 3,135	— 2,061	— 1,870	— 176	—	12,951
1920	— 2,204	+ 2,025	— 1,012	— 496	— 907	212	—
1921	— 711	— 1,483	— 997	+ 889	+ 1,896	—	406
1922	— 1,458	+ 2,953	— 891	+ 1,503	+ 1,872	3,979	—
1923	— 624	+ 2,194	— 856	+ 1,611	+ 1,670	3,995	—
1924	+ 37	+ 3,295	— 970	+ 2,329	+ 2,924	7,615	—
TOTALS:							
Increase	—	7,402	—	5,734	10,750	—	
Decrease	14,542	—	9,638	—	—	294	

[1] Roscoe, *The Baganda, cited,* p. 6.
[2] Cf. the Buganda Birth Registration Law, 1923, *1926 Supplement to the Laws of Uganda,* p. 277.
[3] *Medical and Sanitary Report,* Table IV, p. 10.

These figures indicate that the population of the five territories as a whole decreased two hundred and ninety-four during a period of seven years, and that the population of Buganda decreased 14,542. On the other hand, Ankole, Busoga, and Toro show comparatively large increases. It should be reiterated that these figures must be taken with caution; but they would seem to represent the general trend. Only in 1924 did the Buganda population turn the corner, when an increase of thirty-seven was recorded. The 1925 figures likewise show an increase which is due, apparently, to the rigorous anti-venereal disease campaign of the government and to the abolition of Kasanvu labor.[4]

Increases are slow, apparently because of excessive death rates and of low birth rates. The average death rate for these five territories has ranged between twenty and twenty-six per thousand, a rate which is not far above normal.[5] The most astonishing differences exist in the birth rate. In Buganda, this rate was as low as twelve per thousand in 1919; and it now hovers between eighteen and nineteen, about two-thirds of the European rate in Kenya. In Bunyoro, the rate is between fifteen and eighteen. In those districts registering increases, the birth rate ranges between twenty-five and forty-eight. The average birth rate for the five districts in 1924 was 26.75 per thousand, or two per thousand more than the death rate.

It would thus appear that if the population is to be increased, it is more important to increase births than to reduce deaths. The birth rate is low because mothers are infected with venereal disease, because they do not have proper assistance at childbirth, and because of family disorganization and promiscuity.

2. *Sleeping Sickness*

Much of the depopulation of the past has been due to the fact that the population of Uganda has been subject to the ravages of severe epidemics. In 1900, Busoga suffered from the smallpox, followed in 1908 by a widespread famine in which six thousand people died from starvation and forty thousand more were kept from starving by the importation of food, and as a result of which "the greater part of Bukoli is now bush, inhabited only by pigs, leopards, and hyenas, and in no part of the district have the people as yet recovered their former prosperity." [6]

Sleeping sickness has also made its inroads, which have been especially

[4] Cf. Vol. I, p. 568.

[5] It has ranged from 17.61 to 19.22 per thousand in Buganda; from 28.18 to 40.59 in Busoga; from 24.60 to 39.57 in Bunyoro; from 20.55 to 27.71 in Ankole; and from 15.98 to 30.98 in Toro.

[6] *The Handbook of Uganda*, p. 50. *Famine in the Busoga District of Uganda*, Cd. 4358 (1908).

heavy on the islands of Lake Victoria and along the lake shores. It appears that this disease entered Uganda from the Congo in about 1900. Between 1898 and 1906 it was believed that two hundred thousand deaths from sleeping sickness occurred in Buganda and Busoga.[7] In 1902, it carried off more than nineteen thousand out of the 44,311 people on the Buvuma islands. Between 1905 and 1918, it is estimated that there were 30,308 deaths from sleeping sickness in Uganda[8] of which 20,310 were in Buganda. In 1902 the Royal Society sent a mission to Uganda to study the disease and a little later Sir David Bruce discovered that sleeping sickness was caused by a trypanosome conveyed by the bite of the tsetse fly which breeds near the water. Upon the basis of this discovery, the administration decided to move the whole population away from parts of the shores of Lake Victoria and from the Sese and Buvuma islands.[9] Each family who was thus obliged to move was compensated from four to six shillings according to the number of huts in its possession. Many doctors do not now believe that this move was wise, as it merely delayed combating the fly on the spot.[10] Beginning in 1921, the government started to move the population back to these islands, inasmuch as the tsetse fly had been placed under control through the work of reclamation officers who had cleared the territory near the water of bush.

The Uganda Government has enacted a Sleeping Sickness Ordinance and Rules[11] which authorize the Governor to declare any part of the protectorate an infected area, and to make rules regulating intercourse between infected and non-infected areas. Under Sleeping Sickness Rules, such areas have been declared in twelve parts of Uganda.[12] Within these infected areas natives are obliged to follow rules laid down by the administration which aim to confine the movements of the natives to non-infected regions which are usually away from the water's edge. Natives are allowed to fish in infected waters only after taking out a permit and paying a certain fee. Meanwhile, the government attempts to reclaim

[7] *Report on the Measures adopted for the Suppression of Sleeping Sickness,* Cd. 4991 (1910).

[8] *Interim Report on Tuberculosis and Sleeping Sickness in Equatorial Africa,* League of Nations Health Organization, C. 8 M 6 1924, III, pp. 89 ff.

[9] Cd. 4991, *cited.*

[10] In a report on sleeping sickness in the Kavirondo areas of Kenya, Dr. Carpenter reports that the natives of their own accord retired from the infected areas of the lake. But the absence of population resulted in a very dense growth of bush in the country within a mile of the water with the result that "palpalis is possibly even more numerous than formerly." Quoted, *Further Report on Tuberculosis and Sleeping Sickness in Equatorial Africa,* C. H. 281, p. 50.

[11] Chap. 46, *Laws,* Vol. III, p. 167.

[12] They are: the Victoria Nyanza region, Katwe, Victoria Nile, Mopologoma, Siroko Valley, Bwamba, Wasa River, Lake Albert, Bunyoro, Lango, Busitema, and Nile.

parts of these infected areas so as to make intercourse possible. Thus in 1914, the Uganda Government cleared 1,570,000 square yards of undergrowth and jungle—an area which was gone over at least once a month to keep down the weeds. These prodigious efforts are performed by native labor immediately under the direction of chiefs and reclamation officers appointed by the Medical Department.

The part which the industrialization of Uganda plays in the spread of this disease is shown by the following statement from the 1924 Medical Report:

"The increased movement of labour is liable to result in spreading Sleeping Sickness, particularly in the case of recruits from Gulu and Chua Districts. Efforts have been made to restrain movements within and to and from these districts, but such efforts are fruitless when the demands for labour are so insistent. There is, moreover, a large exodus of workers for private individuals in Buganda and elsewhere, as the Baganda employ natives of other parts to grow cotton for them; there are no means of controlling this. Unless an elaborate organisation for the complete control of *all* labour is set up by Government so that no man could work anywhere for others unless under supervision after medical examination it is quite impossible to check movements of individuals engaged by private persons, and therefore illogical to attempt to prevent recruiting on an organised basis by Government." [13]

The Government of Kenya has not imposed restrictions upon natives in sleeping sickness areas similar to those imposed by the Government of Uganda upon natives on the other side of the lake. This difference in policy has led to many difficulties since Kenya natives from the Kavirondo continually make use of Lake Victoria and other waters bordering on Uganda. The Uganda Medical Report says: "There is every argument on behalf of Uganda for the adoption by Kenya of some system of control of fishermen similar to that in Uganda, or else of their control by Uganda. Unless this is done, there is every probability that infection will spread from Kavirondo to Buvuma and thence to other islands." [14]

The importance of a uniform policy for adjoining territories was realized by the British and German Governments in 1908 when they negotiated a Sleeping Sickness Agreement in which they agreed as far as practicable to prevent natives suffering from sleeping sickness to pass into each other's territories, and to notify each other of infected areas adjoining the territory of the other." [15]

[13] *Annual Medical and Sanitary Report,* 1924, p. 71.
[14] *Ibid.,* 1924, p. 72.
[15] Agreement of October 27, 1908, *British and Foreign State Papers,* Vol. 101, p. 188.

It should be much less difficult to bring about an understanding upon these matters between Kenya and Uganda.

3. *Venereal Disease*

Probably of still more importance than sleeping sickness in preventing the increase of population in Uganda has been the presence of venereal disease. It seems that the natives first contracted these diseases from the Arabs and that at the time of the arrival of the Europeans about twenty or thirty per cent of the native population had become infected.[16] At the present time, however, it appears that ninety per cent of the people are infected at some time during their lives. According to statistics kept for the last twenty years at the C. M. S. hospital at Mengo, two out of every three Baganda mothers have had syphilis at one time or another.[17]

Because of this disease, countless native women become sterile and others are subject to miscarriages and still-births—facts which probably account for the low birth rates above described. According to the statistics of the C. M. S. Mengo hospital, sixty-seven per cent of pregnant women suffering from syphilis become victims of miscarriages or premature births. Moreover, fifty-five out of every hundred babies born to Baganda women die during the first twelve months, partly because of the syphilitic conditions under which they are born.

It thus appears that sleeping sickness and venereal disease together with the disturbance which European penetration has made in the native social organization, have seriously curtailed the growth of population in Uganda.

4. *Native Maternity Work*

The first organized attempt to remedy these obstacles to population growth was made by Dr. and Mrs. Cook, veteran medical missionaries, who established in 1919 the Lady Coryndon Maternity Training School in connection with the Church Missionary Society hospital near Kampala—an effort which was followed by the establishment of a Catholic maternity school by Mother Kevin at the Mill Hill Mission. The purpose of these schools is to train native midwives. The course at the Coryndon School requires about one and a half years, and is given in the native language, Luganda. About twenty midwives are graduated annually. Graduates of these two schools are granted government diplomas under a Midwives Ordinance,[18] and in 1926 the Uganda Government granted subsidies

[16] This is the estimate of Dr. Cook, of the C. M. S. Mengo hospital.

[17] In comparison to a rate in England of five per cent for women, and ten per cent for men. Albert and Katharine Cook, *Amagezi Agokuzalisa,* a manual of midwifery, in Luganda, London, 1923, p. vii.

[18] Chap. 42, *Laws,* Vol. I, p. 486.

amounting to three thousand pounds to both schools, as well as to mission hospitals and dispensaries.

After graduation, the midwives are sent out to country centers where they minister to the needs of native women. The C. M. S. staff maintains fourteen such centers, the equipment of which is paid for by the native administration. In 1924, the midwives at these fourteen centers attended seven hundred and thirty-four confinements, 6678 cases of child welfare, 3418 pre-natal cases, and 4334 cases of venereal disease. The total number of out-patients was 44,430. Of the seven hundred and thirty-four confinements, six hundred sixty-five children were discharged alive, while there were forty-seven still-births and eleven maternal deaths.[18] These midwives not only administer simple medical aid to mothers at the time of childbirth, but they attempt to care for prospective mothers who have venereal diseases. It would appear that the Church Missionary Society in Uganda leads the continent of Africa in this type of work.

5. *Dispensaries*

While these missionary efforts have been confined largely to the training of midwives, the Medical Department of the Uganda Government has organized an equally excellent type of instruction for native medical assistants, and has undertaken other efforts to rid the country of venereal disease. Following the World War, the Medical Service established a special Venereal Disease Department which organized special clinics where cases could receive treatment. Most of this treatment is given, however, not by European doctors, but by native assistants. At the present time, there are about four hundred of these assistants, many of whom have received training at the leading government hospital at Mulago. For a time, the Buganda native government assisted in this work through a compulsory notification system, under which the governmental medical officers would transmit to the Lukiko a list of infected natives who failed to appear for hospital treatment regularly.[19] Originally, the defaulter was fined a shilling or two—a policy which has, however, been abandoned.[20]

In 1923, the Medical Department started the policy of dotting the

[18] Pamphlet, *C. M. S. Medical Mission in Uganda.*

[19] The Law for Preventing Venereal Disease, 1913, *Laws,* Vol. III, p. 494. This law obliges every infected person to report himself to the mailo owner. Every mailo owner is obliged to make inquiries twice a month among his tenants to see if any of them are infected. The gombolola chief reports to the saza chief every month the names of infected persons reported by the mailo owner, and the saza chief sends these reports to the Lukiko. The saza chief gives orders to take any infected person to the nearest venereal disease center for treatment.

[20] *Annual Report on Venereal Measures,* 1922, p. 12.

country-side with sub-dispensaries in charge of native dispensers to cure venereal diseases and ailments of a similar nature. By the end of 1924, forty-six such sub-dispensaries had been established while applications for fifty more dispensaries had been received from administrators and chiefs. According to the Annual Medical and Sanitary Report, these centers "are immensely popular with the native population and have proved to be a very successful means of tapping districts which heretofore have been practically out of medical reach beyond perhaps for a visit once a year or less frequently by a District Medical Officer on tour. . . ." The report further states: "The excellent work done by these sub-dispensaries and their popularity with the various native tribes abundantly justify the policy of their extension. . . . The fact that during the year under review approximately a quarter of a million of new cases have been treated indicates that a real advance has been made towards bringing medical aid within reach of all natives throughout the Protectorate, numbering over three million. Such a result would clearly be impossible through district hospitals alone, separated from each other as they frequently are by distances of one hundred miles." [21] Natives who can assimilate knowledge by means of a dissecting table and of a microscope are certainly far removed from the domain of savagery. As a result of the extension of the range of dispensary treatment, the number of cases treated for syphilis and yaws increased from 27,132 in 1923 to 46,659 in 1924.[22]

Hitherto, the native personnel in charge of such dispensaries has been trained at the Mulago hospital. But courses are now being installed at Makerere College to train native assistants who will correspond to Indian sub-assistant surgeons. Ordinary native dispensers or nurses will continue to be trained at the Mulago hospital. At Makerere College, prospective assistants are given a five-year course in elementary sciences, such as mathematics, chemistry, and physics. The principal believes that a knowledge of some kind of theory is necessary if natives are to perform successfully this type of medical work.[23]

In addition to these native dispensaries, Uganda has the finest system of hospitals in Africa. Although the size of the Uganda medical establishment and the medical expenditure increased only slightly between 1920 and 1924, the number of new cases treated annually steadily increased from 62,405 in 1920 to 240,000 in 1924—an increase partly due [24] to the use

[21] *Annual Medical Report,* 1924, pp. 18, 31.
[22] *Ibid.,* 1924, p. 63.
[23] For example, examination papers contain such questions as: What are the lobes and fissures of the cerebrum? Compare the excretory systems of the worm and the vertebrate.
[24] Cf. the graph, *Annual Medical and Sanitary Report,* 1924, p. 3.

of native dispensers. While Kenya makes larger per capita expenditures on medical work for natives than Uganda, and while the number of doctors in Uganda is less per capita than in Kenya, the government medical service in Uganda, together with the splendid medical efforts of missionaries, have given to the Uganda natives what is probably the best medical service in British Africa.

6. *Missions*

Missionaries of the Church Missionary Society, one of the organizations of the Anglican Church, entered Uganda long before government officials, and one of the early leaders of this society, Bishop Hannington, was murdered by natives when he attempted to enter the country. Anglican missionaries were followed by the White Fathers who have now established their headquarters in Buddu. Whatever the cause may have been, battles broke out between Catholics and Protestants, which Sir Frederick Lugard finally brought to an end by the establishment of spheres of influence, dividing the counties between the Protestants, the Catholics, and the Mohammedans. At the present time, these spheres of influence do not exist as far as religious propaganda is concerned.[25] But it is usual to appoint a Protestant chief in a Protestant county, and vice versa—a rule which sometimes obstructs good administration. It would probably be done away with except for the strong sectarian feeling which still exists among the natives. The native Church Synod and Councils in the Church Missionary Society are even opposed to stained glass windows in the cathedral on the ground that they are "Popish" decorations. Both Protestants and Catholics are fervent defenders of the faith, and one hears from the natives much outspoken criticism of Makerere college, the new government institution, because it does not "teach religion." On the other hand, the relations between Protestant and Catholic missionaries in Uganda are now remarkably cordial.

As a result of the efforts of Protestant and Catholic missionaries, the total number of native Christians in Uganda is in the neighborhood of 522,000 or about one-sixth of the total native population. This number appears to be about equally divided between the Protestants and the Catholics.[26] This percentage of Christians is exceeded on the continent

[25] A government circular, No. 16 of 1917, on "Mission Churches and Schools," said that the Government of Uganda, while desirous of the spread of Christian principles, "tolerates all forms of belief;" but those who under the guise of religion disseminate disloyal propaganda are excluded from toleration.

"All questions which relate to the delineation of spheres of missionary influence and kindred matters should be left to mutual negotiation between the religious societies concerned."

[26] *Census Returns*, 1921, Table 56. According to this table there are 12,500 more Protestants than Catholics.

of Africa only in Basutoland.[27] A definite majority—about 366,000—of the Baganda are Christians. According to the census, there are ninety-eight thousand Mohammedans throughout the protectorate, the great majority of whom are found among the Buganda people. They do not seem to be increasing nor to be regarded as a "menace" by the missions or by the government.

In view of the important part which the C. M. S. has played in Uganda history, Protestantism has left the Uganda field a virtual monopoly to this organization.[28] The Catholic work is carried on by the White Fathers, the Mill Hill Mission, and the Italian Catholics.

The extraordinary progress of Christian missions in Uganda has been due partly to the personality and methods of European missionaries, and partly to the intelligence of the Buganda people and the fact that the chiefs have become Christians.

The Church Missionary Society to a certain extent has modelled its organization upon tribal lines. Thus a group of village churches constitutes a *muluka* or sub-district, and a group of muluka churches forms a pastorate corresponding to a gombolola district. At present, however, there are not enough native clergymen to take charge of each pastorate.[29] These districts are grouped into deaneries which usually correspond to saza districts. Each of these divisions has its own church council composed, for the most part, of African clergymen and lay members elected by the churches.[30] A Synod, composed of all licensed clergymen and one lay member elected by each congregation having at least one hundred members, represents the churches throughout the whole diocese. At the present time, the Native Church of Uganda has seventy-one African clergymen and 4760 lay teachers.[31] These native clergymen are trained at a Church Missionary Society seminary called The Bishop Tucker Memorial College, at Mukono.

The efforts of the White Fathers in training a native priesthood are probably even more remarkable. In 1893, they established a "petit séminaire" at Buqulasa where prospective priests study Latin and other literary subjects together with manual training, geography and history, for a period of six years. At the "grand séminaire" at Katigondo, where the native novitiates receive the same theological instruction as is given in

[27] Cf. Vol. I, p. 188.

[28] The African Inland Mission carries on a small work in the northern part of the Territory.

[29] Cf. the Right Rev. J. J. Willis, Bishop of Uganda, *An African Church in the Building,* London, 1925, p. 30.

[30] Cf. *Laws and Regulations of the Church of Uganda,* 1917, p. 100.

[31] *Annual Report of the Church Missionary Society for Africa and the East,* 126th year, 1924-25, p. xxxi.

a European seminary, instruction is pursued for nine more years. At the end of this instruction, native priests acquire a fluency in Latin which would put many Europeans to shame. Mother Kevin of the Mill Hill Mission at Kampala is also doing remarkable work in training native nuns.

In the Lake region, the White Fathers have established five "grand séminaires" and eight "petit séminaires" to train a native priesthood. Forty-two such priests have so far been ordained. Recently, this Order has established a Regional Seminary near Tabora, Tanganyika, to serve the Vicariates of Nyassa, Bangwelo, Unyanyembe, and Tanganyika.[32]

Probably because of the wholesale numerical success which Christian missions in Uganda have won, the general moral level of adherents to the faith is not as high as it is among native Christians who constitute a small minority of the population and to whom the acceptance of Christianity means, therefore, a definite sacrifice.

Although a number of Uganda natives live family lives which approach western ideals, it appears that promiscuity is still widespread and that with the abolition of the fearful sanction of death for adultery, which the native government imposed, immorality has even increased.[33] This state of affairs is perhaps inevitable. A native whose father had a hundred wives and whose parents saw no moral wrong in promiscuity cannot be expected to lead a "moral" life, especially when he sees the example of so many European and Indian traders around him.

Strangely enough, the introduction of Christianity, or at least its by-product of monogamy, and the imposition of the hut tax, has resulted in the increase of promiscuity. When chiefs and wealthy men became Christians they put away their surplus wives, and as there was an excess of women in the country, which had been depopulated of men by tribal wars, these deposed wives became a problem. Chiefs accepted responsibility for the women belonging to their own clans and provided them with food and housing. But when the British Government imposed a hut tax on these chiefs, they did not feel that they could afford to pay a tax for each of the women whom they sheltered. Relatives thereupon destroyed the huts of these women and turned them out. Most of them became the prostitutes of soldiers and traders. In an attempt to remedy

[32] "Un Grand Séminaire régional des Pères-Blancs dans l'Afrique des Grands Lacs," *Revue de l'Exposition Missionaire Vaticane,* 1924-25, p. 669.

[33] It does not appear, however, that in the early days this sanction was particularly effective. According to one writer, "Sexual passions were not checked either by men or by women, whenever it was possible to gratify them. . . . The most stringent care was exercised by the King and the chiefs, but it proved inefficient to keep the sexes apart, while the horrible punishments meted out to delinquents, when caught, seemed only to add zest to the danger incurred. . . . The women made it possible for men to enter the inner enclosure by enlarging the water gutters under the fences. . . ." Roscoe, *The Baganda, cited,* p. 10.

the situation, the government changed the hut to a poll tax, "but unfortunately untold harm had already been done before the discovery was made, and venereal disease had taken such a hold that up to the present time remedies have not been able to stay it. . . ."[34] It is only by a policy of rigorous church discipline and a gradual growth that a new moral sense can be developed. Until this sense comes into existence, the elimination of venereal disease will be difficult, if not impossible to bring about.

7. *The Malaki Religion*

Probably because of the self-governing nature of the Native Anglican Church in Uganda,[35] there have been few secessions from the established religious organizations. One exception has been the Malaki sect started some fifteen years ago by a native named Malaki, and promoted since the War by Chief Kabunguru. This sect believes in polygamy, and cites many passages from the Old Testament to show that God never disapproved of this institution.[36] Its exponents say: "Our grandfathers married their wives as God has given them. The Book says that if you have been given one wife, be satisfied with what you have been given; if you have been given two wives, also be satisfied."

This sect is also opposed to medicine, the use of which shows lack of faith in God. This hostility originated, probably, in a bad translation of the passage in the Bible: "Cursed are the Medicine Men." The translators of this passage into Luganda used the word "doctor" for medicine man, with the result that the Malaki followers have scriptural grounds for their attack. If disease is in the world, God put it here, and man should submit.

Finally, the Malaki adherents kept Saturday as their Sabbath, which won for them the title of the Christian Jews. The leader of this religion baptized natives indiscriminately, asserting that no one but God should judge as to the worth of each individual. Kabunguru refused to pay his land tax on the ground that part of the money went to pay government doctors. When he was finally put in jail, he fasted for six or seven days until he was released. He likewise refused to have his cattle inoculated for rinderpest, as a result of which they contaminated other herds. Thousands of natives were at one time attracted to this religion,[37] largely because of their superstitious fear of the medical and veterinary work which the government was establishing; but by this time the gloss was worn off,

[34] J. Roscoe, "Uganda and Some of Its Problems," Part I, *Journal of the African Society*, Vol. XXII, 1923, p. 105.

[35] Cf. the similar institution in Nigeria, Vol. I, p. 148.

[36] *Egibambo ebiva mu Kitabo Ekitukuvu*, pp. 36 ff.

[37] The 1921 Census (p. 47), puts the number of followers at about 91,000.

partly because of the effective medical work being done, and probably nothing more will be heard of it upon the death of Kabunguru, its mainstay.

8. *Education*

Until 1925, the Uganda Government left the task of education in Uganda to missionary bodies. Their efforts have been carried out without any government supervision and until recently without any government financial aid. Schools have been financed partly out of mission funds, but to a remarkable extent by fees collected from the people and grants of the Lukiko and from native churches. The highest mission schools are the King's School at Budo, belonging to the C. M. S., St. Mary's College at Rubaga run by the White Fathers, and St. Peter's School at Nsambia, owned by the Mill Hill Catholic mission. The White Fathers maintain a technical school at Kisubu and the Italian Catholics have an agricultural school.

There are about a hundred "central" or "high" schools in the protectorate, a third of which are boarding schools which give secondary work. The vast majority of schools are, however, out-schools, located in villages under a native teacher and teaching primarily the principles of religion. There are about three thousand two hundred such schools in Uganda.

These various schools (including the government institution, Makerere College) have the following enrollment:

SCHOOL ATTENDANCE—UGANDA [38]

	Schools	No. Boys	No. Girls	Total Attendance	European Teachers	Native Teachers
Anglican	1,607	63,854	41,536	105,390	7	1,882
Roman Catholic	1,587	40,700	25,871	66,571	95	2,162
Non-Mission	12	608	33	641		24
Grand Total	3,206	105,162	67,440	172,602	102	4,068

These figures must be taken with caution since the returns are inaccurate. About a quarter of the population of school age in Uganda, totalling six hundred and thirty thousand, is in school—a percentage higher than in most African territories. The large number of girls attending school is also significant.

The Phelps-Stokes Commission expressed the opinion that this "is an educational achievement of which missions can legitimately be proud." It continued: "Considering that educational work began in the kingdom of Buganda only thirty years ago, and that in some of the areas of most

[38] *Annual Report of the Education Department*, 1925, p. 21.

rapid development in the Eastern Province education was introduced only a dozen years ago, the progress is amazing. . . . While the missionary societies have made remarkable use of the available funds and staff for the education of the people, they have been seriously hampered by meager financial resources. They have also failed to relate their educational activities to the community needs of the people. The type of education has been too exclusively literary. In a country with unusually fertile soil they have made practically no provision for agricultural education. . . ." [39]

These defects, which exist throughout the entire continent of Africa and have long been recognized by many missionaries, are now being rectified.

Awakening to the fact that it cannot avoid responsibility for this fundamental factor in human life, the government has also undertaken an educational program. In 1925, it established an Education Department with one of the most competent educational officers in the British colonial service in charge. The first step in its policy is cooperation with missions. The government makes grants-in-aid to mission schools which amounted in 1924 to 8846 pounds—a sum which was, however, exceeded by nearly two thousand pounds in fees paid by native pupils. The 1926 Estimates increased these grants to 22,500 pounds which is twice the grant-in-aid made by Tanganyika but five thousand pounds less than the 1926 grant of the Kenya Estimates.[40] The total educational expenditures of the Uganda Government increased from 1.7 per cent to the total revenue in 1924 to 3.55 per cent in 1926.[41]

In order further to promote cooperation with missionary enterprise, the government has established an Advisory Committee on Education, composed of missionaries, officials, and natives, similar to committees in other territories. It has also established provincial councils on education which will have financial responsibility and general control over the schools within the province—a unique system of decentralization which will tend to insure cooperation between various societies on the spot, instead of cut-throat competition. Moreover, the government has decided to erect schools of its own.

It has divided the schools of the country into: (a) sub-grade schools which cannot attempt to conform to the government syllabus; (b) ele-

[39] *Education in East Africa,* New York, pp. 151, 163.
[40] Cf. Vol. I, p. 387.
[41] In 1921, the Uganda Government made a Development Loan of five hundred thousand pounds. Up to 1925, 30,108 pounds of this loan had been spent on government educational buildings (Makerere College) and 17,250 pounds as grants to missions for educational buildings. For a five year period from January, 1926, the government plans to expend up to one hundred thousand pounds on government educational buildings. These extraordinary expenditures are not included in the above percentage.

mentary vernacular schools which will conform; and (c) intermediate schools A and B, corresponding to the more advanced mission schools.[42] The government plans to erect a few schools in each of these classes as a model which missions may follow. So far, however, it has restricted its efforts to Makerere College at Kampala. Work on the buildings was started in 1921. Admission is by competitive examination and in 1925 about two hundred and twenty-five candidates[43] presented themselves, but there is room for only fifty students.

The purpose of this school is to give natives a training more advanced than they can receive in any mission institution, and which will be primarily along technical and scientific lines. Native candidates for the government civil service may receive training here in medical work, surveying, agriculture, mechanics and carpentry. The college will also train teachers. Instruction is in English.

Throughout all of the elementary schools, which are so far only mission schools, instruction will be in Luganda for all Bantu peoples, whether they belong to the Buganda race or not. This decision was arrived at after a long debate as to whether the government and missions should attempt to make Swahili the *lingua franca* of the country as the Germans had done, and as the British are now doing in Tanganyika.[44]

A decision in favor of Luganda was finally made, largely on the ground that the leading natives in the other areas such as Bunyoro or Toro already know Luganda and converse in it, instead of in Swahili. By means of Luganda, the outlying districts may gradually be amalgamated with Buganda proper into a single nation. In the Nilotic areas of the northern and eastern provinces, another language, as yet undecided upon, will be used.

Coming into the field so late in the day, the Uganda Government has had considerable difficulty in overcoming native suspicion. This opposition has expressed itself particularly in regard to the plans of the government for changing the type of instruction in village schools. "To most of the children who go to school the learning of a little English is the coveted goal, and the motive behind this desire is that they may escape from the

[42] In the Class A Intermediate Schools, the program of instruction is as follows: Out of thirty periods a week, five are given to religion, eleven to English language and penmanship, five to mathematics, two to geography and history, one to hygiene, one to drawing, and five to hand or outdoor work.

Out of thirty-six periods a week in the Class B schools, the same amount of time is given to religion, but nine hours are given to English, seven to mathematics, four to history and geography, three to science, one to Luganda composition, one to drawing, five to hand or outdoor work, and one is optional. *Provisional Syllabus of Studies, Intermediate Schools, Education Department, 1925.*

[43] Of these all but seven were applicants on the technical side.

[44] Cf. Vol. I, p. 479.

rank of manual workers and fit themselves for some kind of clerical occupation, which they believe to be more dignified and less arduous." [45]

The government hopes to overcome this point of view by making the village school the pride of the village and the center of community interest —a task which depends upon the training of a capable teaching staff. The government is also assisting the movement away from a literary emphasis by adopting civil service regulations which will give precisely the same privileges and status to higher grade artisans as to clerks and interpreters in government offices.

Uganda is now laying the foundation for an educational development, the effects of which will probably be more successful than anywhere else in Africa, except on the Gold Coast, because of the social solidarity of the people and of the spade work which missionary enterprise in Uganda has performed. The real progress of the educational movement depends upon a sound elementary education, and this depends upon training a corps of native teachers. The Uganda Government realizes that quality is more important than quantity. Its motto is to make haste slowly but well.

[45] *Annual Report of the Education Department,* 1925, p. 11.

CHAPTER 35

NATIVE PRODUCTION AND ITS RESULTS

1. *Cotton*

From the material standpoint, the outstanding feature of the Protectorate of Uganda has been native production, primarily of cotton. It appears that the cultivation of this crop was introduced into Uganda by a C. M. S. missionary, followed by efforts of the administration in 1904.[1] At first, it flourished only in the Eastern Province, which, indeed, leads the rest of the protectorate to-day. For a time, it looked as if the natives of the Eastern Province would permanently leave the Baganda far behind. Consequently, the government, following the War, adopted the motto: "Look at the Eastern Province and be ashamed,"—a very effective admonition which, among other factors, led to the extension of cultivation throughout Buganda. It appears that to promote this cotton production, compulsory measures were taken. In 1917, the Buganda Lukiko passed a resolution which said: "It has been decided to follow what the Provincial Commissioner of Buganda has spoken. Every man must cultivate cotton as it has been ordered. Any one neglecting to do so shall be fined as follows: Saza chief from 1 cent to two and a half rupees; gombolola chief, one rupee; mutongole, 50 cents; and mukoni, 25 cents."

These efforts did not, however, prove really effective until the cotton campaign conducted by the Governor, Sir Geoffrey Archer, in 1921-22. Sir Geoffrey prepared and circulated tables showing the relative output and population of Buganda and the Eastern Province, demonstrating that unless the Baganda began to do more work, Buganda would become of minor importance to the economic life of the protectorate. Because of the intense pride of the Baganda, this probably had as much effect as direct compulsion, if not more. Moreover, beginning in 1922, the chiefs started to exact a tithe of the produce, which gave them an incentive to increase the production of their subjects.

The production of cotton in Uganda has been as follows:

[1] *Uganda Cotton Industry*, Cd. 4910 (1909). Early attempts to induce natives to plant cotton on communal plantations failed. They preferred individual plots. *Ibid.*, p. 11.

COTTON PRODUCTION IN UGANDA, 1909-1925.

Year	Estimated Acreage	Exports in Cwts.	Value in £
1909-10	24,680	23,180	60,445
1913-14	110,264	99,927	317,687
1918-19	144 592	98,188	965,951
1920		208,746 [2]	3,919,453
1921		325,463 [2]	1,281,357
1922		193,159 [2]	877,625
1923	418,609	352,184 [2]	2,026,820
1924	572,814	514,418 [2]	3,486,565
1925	617,324		4,685,992 [1]

[1] *Annual Report of the Department of Agriculture,* 1924, pp. 5, 44; *The Handbook of Uganda, cited,* p. 179. *Uganda Report,* 1925 (Col. No. 1318), p. 8.
[2] Export in centals of raw cotton.

Thus the acreage has increased from 1909 to 1925 2220.0 per cent, and the amount of cotton produced 2125.0 per cent. The figures also show an increase in acreage under cotton cultivation of more than three hundred per cent during the years since the end of the World War. The most notable feature, however, is the fluctuation in prices which depends chiefly upon the American cotton market.

The average holding per taxpayer, while yet small, is slowly increasing. In the Eastern Province it was .97 acre in 1924 and 1.24 acres in 1925. In Buganda, it was .78 acre in 1924 and 1.16 acres in 1925. The average yield per acre in 1925 was about four hundred and twenty-two pounds, while the average production per taxpayer was five hundred and eleven pounds. The yield per acre of cotton in Uganda compares favorably with the yield in America where the type of cotton is about the same. Although in Egypt the yield is about three times as great, the cotton is of a different type and conditions of production are also different. If the average holder produces five hundred pounds of cotton a year, he will receive an annual cash income of one hundred and fifty shillings, or about thirty-five dollars. In the meantime, he grows his own food, and perhaps other commercial crops. In 1924, the value of the cotton exports of Uganda came to about four million six hundred and eighty-six thousand pounds, which is about 7.8 pounds for each taxpayer. But inasmuch as only about half the taxpayers grow cotton, the real income is proportionately greater.

Next to Zanzibar and the Gold Coast, Uganda leads the continent in the per capita value of exports.

Largely because of this one crop, which is the result solely of native effort, the exports of Uganda are twice the exports of the neighboring territory of Kenya. While it would appear that the labor difficulties of

Kenya soon will place a limit upon production, Uganda's output will steadily increase in proportion as education and industry take hold of the people.

The remarkable fact about native production in Uganda is that it has received very little assistance from the government. The Phelps-Stokes Commission reported, "With all the wealth of agricultural resources in the Protectorate, there is not a single agricultural school to prepare the Natives to take advantage of their wealth." [2]

The Department of Agriculture has, nevertheless, trained a number of cotton instructors at various experimental farms who have attempted to improve native methods of agriculture. Simple booklets have been issued upon elementary agriculture in Luganda and English couched in language adapted to African form of thought. Thus the first lesson in one of these books says: "The Earth is the mother of all things. We are her children and everything we want comes from her." Another lesson says: "It is a general rule amongst people that strong healthy parents usually have strong healthy children." It is the same with animals and with plants. Therefore, good farmers must plant healthy seed.[3] The department has also established plowing schools, as a result of which the number of plows used by the natives increased from two hundred and eighty-seven in 1923 to seven hundred and sixty-nine in 1924, to 1840 in 1925.[4] The use of plows in Buganda Province is handicapped by the presence of rinderpest which preys upon the cattle necessary for plowing. Difficulties are increased by the fact that the country is hilly and covered with tough elephant grass. The elimination of rinderpest is a task for the Veterinary Department. What Uganda needs is a comprehensive educational system which will put a native agricultural demonstrator into every county under the general direction of a chief who will cooperate with the native dispensers, midwives, teachers, and clergymen in the improvement of the native community.

Cotton is a plant peculiarly susceptible to disease, as the ravages of the boll-weevil in the southern United States have so dismally proven. In order to prevent the invasion and diffusion of such pests, which are numerous in Uganda, the government has adopted Cotton Rules which prohibit a person from growing cotton from seed which he has obtained from any source other than the government. The government undertakes to furnish cotton seed free to growers every year, and distributes several thousand tons of seed annually. It also requires every native grower to

[2] *Education in East Africa, cited,* p. 168.
[3] E. G. Staples, *Lectures in Elementary Agriculture,* Department of Agriculture, 1925.
[4] *Annual Report of the Department of Agriculture,* 1925, p. 12; *Uganda Report,* 1925 (Col. No. 1318), p. 8.

uproot and destroy all cotton plants after the first season's crop. On no account shall they be allowed to remain for a second season.[5]

It likewise prohibits natives from planting more than one crop a year, although two crops could easily be grown. All of these measures are designed to stamp out disease.

Before the export of native crops is possible, some system of evacuation must be provided. Uganda, as we have seen, is dependent for an outlet to the sea upon the Uganda Railway, which runs through Kenya Colony. Except for one or two stub lines, there are, as yet, no railways in Uganda proper. Consequently, most of the cotton, which is largely concentrated in the Eastern and Buganda Provinces, is conveyed by motor car either directly to Kisumu, the terminus of the railway, or to a port such as Jinja, where it is carried to Kisumu by boat. The Uganda Government has constructed for this purpose an admirable system of roads, probably the finest in Africa. It has also organized a government transport service in which government motor trucks transport native cotton, thus liberating the native producers from their dependence upon private enterprise. This service cost the Uganda Government nearly forty-seven thousand pounds in 1926. Despite these efforts, the cost of transport is still so high that growers more than forty miles away from port must annually burn thousands of tons of cotton seed, constituting two-thirds of the crop, which they could sell at a profit if the cost of transportation were normal. This cost will be lowered with the completion of the railway from Kisumu to Jinja—and of the Nakuru-Turbo branch from Kenya. In order to compensate itself for the expense connected with the transport and marketing system which it has installed, the Uganda Government has imposed a cotton export duty which brings in a revenue of about 216,000 pounds a year—a tax which cotton buyers have bitterly criticized.

2. *Cotton Marketing*

The product of the native cotton farm must go through a ginning process before it can be shipped out of the country to a European market. Ginning requires a knowledge of machinery and an investment of capital which, for the time being, no natives possess. Consequently, the ginning and the marketing of cotton are in European and Indian hands. The Uganda Government does not, however, follow a policy of "free trade." No European nor Indian can enter the territory and buy cotton without securing a license, the number of which is limited. The administration

[5] Uganda Cotton Rules, 1922, paras. 2 and 6. Under the Prevention of Disease (Cotton and other Trades) Ordinance, 1916 (Chap. 72), the Governor may proclaim infected areas from which the export of cotton seed is prohibited. There is also a Cotton Pest Board which has several native members. Chap. 69, *Laws*.

believes that unrestricted trading and ginning would lead to a depreciation in the quality of cotton, the defrauding of the native, and the over-capitalization of marketing concerns which would lead to decreased selling prices.[2] Consequently, the district commissioner may refuse a license to any person on the ground that a sufficient number of licenses has already been granted in the area. Every such refusal is subject to appeal to the High Court.

A cotton purchaser must classify cotton into first quality, which is clean and white, and second quality, which is slightly stained. He can purchase and house cotton only in a certain number of markets or ginneries appointed as a market by the government. The time of purchasing cotton is fixed by the district commissioners. No contract for the purchase of cotton is valid when it is made for a consideration other than cash.

In addition to limiting the markets where cotton may be purchased, the government also limits the number of ginneries. Ginneries must be licensed and furnish monthly returns to the Director of Agriculture in regard to the quantities and qualities of cotton ginned. At present, it is the rule of the government to keep ginneries and markets about five miles apart. The native can take his choice between selling at a market or at a ginnery. At the present time, there are about a hundred ginneries in the Eastern Province—the center of cotton production—and about sixty in Buganda. Most of them are owned by Indians, and it is believed that should free trade be established, the Indians would drive out the Europeans. In 1923, an exhaustive inquiry was made into this system of controlled markets, at which practically all the commercial interests of Uganda declared themselves in favor of free trade. The government, however, decided to continue its policy of controlled markets for reasons mentioned above. At the same time, the restriction of competition always tends to decrease prices paid to the producer by the middleman. In Uganda, the competition between Indian ginners is so furious that this has not taken place to any great extent. Nevertheless, ginning sites have sold at fabulous sums simply because they have virtually a buying monopoly within a five-mile radius.

The Uganda Government has lagged behind the British governments of the West Coast in grading cotton as to quality. It has taken the position that it is to the self-interest of the buyer to purchase only high quality cotton. But experience in Africa so far has shown that if the quality is to be improved, it must be subject to government inspection. In Uganda, there is a good deal of mixing of short with long staple cotton, which would be overcome by the system of inspection which now prevails in Nigeria.[6] In 1924, the government established a Cotton Control Board with advisory

[6] Cf. Vol. I, p. 776.

powers in regard to production and marketing [7]—a body which might well work out some such system.

Nearly half of Uganda's cotton is shipped to Bombay for Indian consumption.

3. *Native Coffee*

Any country which depends for its exports almost exclusively upon one crop, such as Uganda and the Gold Coast, is in a dangerous position. The position of Uganda is especially dangerous because of the wide variations in the cotton market. Thus in 1921, the income from cotton was about two and a half million pounds less than in 1920, despite the fact that the production increased by more than a hundred thousand centals.[8] It has been extremely difficult, if not impossible, for natives unfamiliar with the laws of international trade, to understand these fluctuations; and when the market has fallen, much discontent, which has inevitably been directed against European and Indian traders, has been the result. Moreover, should the European cotton market fall as the result of a large American cotton crop, or should Uganda cotton succumb to a disease, the finances of the country, so closely dependent upon trade, would become precarious.

In order to protect the country against this danger, the Department of Agriculture is pushing the development of Robusta coffee, which yields in money about three or four times as much per acre as cotton, and which is virtually pest proof. Natives returning to the Sese islands in Lake Victoria Nyanza are planting this coffee. In 1924, the department issued fifty thousand plants to the natives in the district of Masaka, and ninety thousand to the Bugishu natives on the slopes of Mount Elgon, where there are already 2283 coffee plots. The Department of Agriculture has also installed coffee pulpers. At present coffee holds second place in Uganda exports—amounting to 139,469 pounds in value in 1925. But this includes the Arabica coffee planted by Europeans, the production of which is now falling off because it is not suited for humid regions, and apparently because of the difficulty of obtaining native labor.[9] It is not improbable that native grown Robusta coffee may eventually equal cotton in importance as an export. It may also be supplemented by cocoa, maize, groundnuts, and simsim.

4. *Social Results*

The widespread and sudden fluctuations in prices of cotton, together with the intense competition of European buyers, have stimulated an im-

[7] *Uganda Gazette, 1924,* p. 133. [8] Cf. table in Vol. I, p. 618.

[9] Cf. Vol. I, p. 627. In an agricultural leaflet on coffee the Department says: "We have written these words to teach you how to cultivate coffee, because we think that if you plant a plot of coffee and look after it properly you will get much profit."

provident spirit among the natives. The following opinion of a representative of the Empire Cotton Growing Corporation, following an investigation in Uganda, is worth quoting:

"That he works as hard as he does and cultivates so much land reflects the greatest credit on the hard efforts of the Administration and of the agricultural officers (and incidentally of the native), and that he will continue to work for the sake of those luxuries which he so much appreciates is undoubted. . . . But the native in the cotton-growing areas of the Protectorate is at present far from being hard worked. . . . All around him he sees keen competition for his cotton, and there is no doubt in my mind that there is a certain amount of bribery and corruption to induce him to sell his cotton in certain quantities. This cannot have a good effect on him, nor is it conducive to commercial morality. It induces a gambling spirit throughout the country, and at present there are few signs of thrift among the population generally. . . . It is probable that if, for a term of years, the Government had exercised an even closer control, and had themselves bought the cotton from the natives, or had grouped all buying within an organization which they could influence, such measures would have had considerable administrative advantages. Prices would have been stabilized and profits would have been diverted toward general development and education. The natives would not have been rich it is true, but they would have been very reasonably prosperous, and the dangers to them of getting rich too quickly would have been obviated." [10]

Whether or not these faults could have been avoided by a different policy it is difficult to say. But at present, it is too late to effect a change.[11] Natives have learned to read cotton quotations in the newspapers. If the price declines, undoubtedly cotton cultivation will decline.

There is no doubt that the cotton industry in Uganda has led to the increased cost of food. Many settlers in Kenya who are opposed to native enterprise assert that it has actually led to a decrease of food production. But there is no evidence that this is so. What has happened is that as a result of the entrance of thousands of alien laborers into the Eastern Province and Buganda to perform manual labor, the demand for food has gone up while the supply has lagged behind. As a matter of fact, the cotton policy of the government, notably the one-crop rule, has really increased food production. Land can be used only half the year for cotton; consequently, to keep it in shape, it is planted the other half the year with foodstuffs. It also seems that food is produced to a greater extent in the cotton-growing areas than in the non-cotton-growing areas of Uganda.

[10] *Report on the Cotton Growing Industry in Uganda, Kenya, and the Mwanza District of Tanganyika,* by C. N. French, Empire Cotton Growing Corporation, 1925.

[11] For the Nyasaland system, cf. Vol. I, p. 251.

From a comparison of the Uganda and Kenya *Gazettes*, it would appear that the Kenya Government has prohibited exports of foodstuffs from its reserves in many more instances than has the Uganda Government,[12] which indicates that there are more food famines among natives in Kenya than in Uganda. At the present time, the natives have more than three million acres of land under cultivation, which, with the exception of about seven hundred thousand acres, are almost entirely given over to the production of foodstuffs.[13] Among the grain-eating peoples who inhabit half the protectorate, it is the policy of the administration to establish communal grain reserves, which tide over the people for several months in the famine years that periodically visit the country. Among the banana-eating peoples, such as the Baganda, famine is almost impossible because of the perennial banana tree.

The charge has been made that the burden upon the native women has been increased as a result of the cotton industry. This charge, which usually emanates from Kenya settlers, does not seem to be substantiated. It appears that while the women are left to look after the cultivation of food among the Bantu peoples, the men undertake the cultivation of the commercial crops. Among the grain-eating peoples, the cultivation of food has always been and still is the work of the men. Banana cultivation, which is left to the women in Buganda, consists merely of keeping the plantation free from weeds. Preparing the ground for cotton planting, as well as cotton picking require very little work of an exacting nature. In view of the growing indolent "feminism" of many Buganda women, which has been produced by sudden wealth, it would seem that a little honest work would do them good.

As a result of this system of production, the Uganda native, whether peasant or landlord, has become comparatively wealthy. This wealth has had a marked effect upon social life generally. The contrast between living conditions in the Kavirondo reserve in Kenya and in Uganda is striking. In Uganda, the old round thatched hut with only an aperture for a door is disappearing in favor of a square house, with windows, doors, and chimneys. Many of these houses are surrounded with little flower gardens, lawns, and reed fences. European cooking utensils and knives and forks are being introduced while European crockery is, unfortunately, displacing the old native calabash. Natives are beginning to eat off tables and to use lamps and candles. Most of them put their extra money into bicycles. There must be about twenty thousand such vehicles cluttering

[12] Under the Uganda Native Authority Ordinance, 1919, administrative officers may require any native to work on public work or cultivate crops in view of the imminence of famine. But so far, the government has not exercised this power.

[13] Cf. the table, *Annual Report of the Department of Agriculture*, 1924, p. 39.

up the roads to-day! These bicycles sell at prices ranging from eleven to thirty pounds. European firms advertise extensively in the native newspapers. They likewise sell a number of motorcycles, mostly to chiefs, costing from fifty to one hundred and fifty pounds. A native owner as a rule takes exceptional care of his bicycle. Some peasants have become wealthy from trading in these vehicles. They buy wholesale cases from European firms and then retail them back in the country.

Women everywhere have the faculty of spending men's money, and Uganda women are no exception to the rule! Indeed, in view of their manual labor, they feel morally entitled to a share of the profits. The sale of cloth in Uganda is tremendous. While natives still concentrate on cotton drill, many natives buy silk and velvet cloth, costing from twelve to fifteen shillings a yard, and dresses costing as much as one hundred shillings. Three or four years ago, the women would buy only lengths of print, which they wrapped around themselves in the manner becoming to all African women. But now more dresses are sold by some stores in Kampala than drill. The fair sex has also become addicted to Princess petticoats. Women as well as men now indulge in European underwear and in umbrellas. In the last couple of years, the sales of the boot and shoe department of some stores have increased one hundred per cent. The natives have the same instinct for style as Europeans. While in 1924 they bought only enamel dishes, in 1925 they turned to china. For a while, one store sold great quantities of a cheap felt hat at five shillings; but suddenly the natives dropped it in favor of a ten-shilling contraption, as a result of which the store had a large stock of the cheaper variety as a white elephant on its hands! Natives are starting to buy European canned goods and such articles as tea and sugar from which they manufacture beer. The sale of mouth-organs, clocks, and teapots is enormous.

Undoubtedly the native standard of living has increased as a result of increased prosperity. So far, however, the native spends virtually all he makes. He has no conception of thrift, nor has he learned how to accumulate capital. This is not surprising in view of the fact that dozens of Indian and European not to mention native traders daily tempt him to spend his money. Banks are foreign to his existence, and the government has done virtually nothing to stimulate the habit of saving. For a time, the treasury conducted a savings bank which in 1924 had seven hundred and three depositors with deposits amounting to ten thousand pounds. There were only five branches in the protectorate, and the rate of interest was only two or three per cent. The control of this bank has now been transferred to the post office department with headquarters at Nairobi. There are only half a dozen native accounts in the Bank of India at

Kampala. A large number of natives deposit money with the missions, without interest, for safe keeping. Bankers assert that from thirty to fifty per cent of the sterling that leaves the bank to pay for cotton never returns, which apparently indicates that the natives are burying a good deal of money.

While both in Kenya and Uganda, facilities for native savings should be improved, the experience of West Africa would seem to demonstrate that the quality of thrift can best be promoted through some form of co-operative society, in which sums contributed by natives may be used for the purchase of tools and other instruments of production, the results of which may be immediately visualized. The Lukikos should be encouraged to set up native hand ginneries and coffee pulpers and to distribute cotton seed by means of such funds.

Whether or not as a result of this wealth, there has been a tremendous demand for education, while native family life is better to-day than it has been before. Chiefs have secretaries with typewriters. But this increased wealth in Uganda has also its dark side. Sudden riches have produced the same results here as in any other country afflicted with a *nouveau riche* class. The Muganda has spent his money in many cases extravagantly. In other cases, wealth has led to the acquisition of new vices, or at least to the increase of old ones. Drinking, not only of native liquor, the sale of which the Lukiko attempts to control,[14] but also of European liquor, has increased. The latter is prohibited by law to the native, but there is a good deal of illicit trading. This has led to increased drunkenness which is not only bad in itself, but leads to increased crime. Most of the native murders are due to drunkenness. Chiefs set a bad example in this respect, and native police are loath to arrest such dignitaries. There is also a good deal of gambling. The Annual Report of the Police for 1924 says: "There has been a wave of discontent throughout the whole Force during the year" due to the increased wealth of the peasants in which the Force has not shared. Non-commissioned native officers at Soroti and Kabale were found guilty of gambling and engaging in an illicit liquor traffic, which was due, however, to the lack of proper European inspection. In 1924, a total of 3690 complaints were made to the police, an increase of five hundred and sixty-six over 1923 and of seven hundred and twenty-six over 1922. The amount of serious crime is, however, still low, most of the offenses being the violation of such police measures as the Highway Ordinances, for which there were two hundred and thirty convictions in 1924.

There is no doubt, moreover, that a growing spirit of indiscipline and

[14] Native Liquor Law, 1917.

demoralization has come into Uganda as a result of this wealth and the methods of obtaining it. This is felt in the government departments where the efficiency of native artisans has declined. Three years ago, a native bricklayer would do three hundred to three hundred and fifty bricks a day, but now does only seventy, despite the fact that his wage is fifteen shillings a month higher than three years ago. This deterioration is due in part to wages which, comparatively speaking, are still low and which have driven the better artisans into independent trade. An Indian bricklayer can do the work of three natives. In 1925, the Uganda Government decided to import Indian artisans to perform work which natives had hitherto been doing. The Post Office Department has experienced similar difficulties with native telegraph operators. All of these difficulties are found in any community, whether industrialized or primitive, which has suddenly acquired great riches. They may eventually be overcome by a proper educational system.

5. *The Labor Situation*

The most noticeable effect of this increased native production is the labor shortage, which has nearly stifled European agricultural enterprise and has affected the cotton industry itself. Some ginneries have been unable to work full time because of lack of labor, and cotton has lain exposed to the elements on the pier at Jinja, Mjanji, and Kampala for want of labor to load it on boats or trains. There are about one hundred and sixty European planters in Uganda to-day, who own nearly 86,000 acres of land of which they cultivate 23,586 acres. There are also about twenty-one Indian plantations, covering an area of 13,842 acres of which 5,997 acres are cultivated.[15] While Uganda has its Highlands, they are more restricted and less accessible than those of Kenya. At the same time, the areas in the vicinity of the Ruzenwori mountains and elsewhere are capable of supporting a much larger white population than they do to-day. The European planters, most of whom cultivate Arabica coffee and Para rubber, depend, like their brothers in Kenya, upon native labor. But there are few natives who wish to go miles away to live under unnatural conditions when they can make more by growing cotton at home. Consequently, the labor supply of the European planters has fallen off to such an extent that several hundred acres of land have gone out of cultivation [16] and numbers of planters have been on the verge of bankruptcy.

It appears that before and during the World War, the administrative officials exerted "pressure" upon natives so that they would work on

[15] *Annual Report of the Department of Agriculture,* 1924, Appendices 10, 11.
[16] *Report of the Uganda Development Commission,* 1920, p. 13.

plantations. The kasanvu labor system, as we have seen, operated toward this end. In 1920, a Uganda Development Commission was appointed, composed of officials and representatives of the Ginners' Association, the Planters' Association, and the Indian Association, to inquire how the protectorate could best be developed. This commission expressed the opinion that there was room for both native and European cultivation. Despite this optimism, it believed that something needed to be done about the labor situation. The commission was in favor of the registration system, which commercial interests in Uganda have since demanded. It believed that unmarried men should do two months of kasanvu labor a year, and that the government should grade skilled labor as if it formed part of the Civil Service. It believed that a higher tax should be imposed upon a non-worker than upon a worker, and that a tax of two rupees a month on hawkers, or itinerant traders who spend most of their time loafing, should be imposed. Heavy imprisonment should be meted out to natives who showed false certificates of employment, while a rigorous control over squatters should be exercised. It did not believe that increased wages would remedy the labor shortage since the native would not know what to do with the extra money and hence would probably not work as long as before. There was no objection to the employment of women and children on plantations as long as each accompanied her husband or father. In order to secure "Labour for the Public," the commission believed that indirect and direct pressure should be used. It said: "We submit that there is no injustice in compulsion as such. . . . Some form of pressure may became a practical necessity if the potential wealth of the country is to be developed, and stagnation avoided." It must be legalized.[17]

The hostility of the planters toward the Director of Agriculture, apparently because he pushed native production so vigorously, was also noted in the report. While the pronouncement of the Colonial Office in regard to labor policy [18] brought to an end this talk of compulsion, a sentiment in its favor is still expressed by planters, many of whom are urging to-day that the newly formed government recruiting agency, which recruits labor for government work, should also recruit for the planters.[19]

In order to secure labor, the planters organized the Uganda Planters' Association Recruiting Organization in 1924, employing native recruiters.[20] While the first attempt failed, the association was reorganized in 1925

[17] *Report, cited,* p. 19. [18] Cf. Vol. I, p. 568.

[19] The *Report of the East Africa Commission,* 1925, p. 43, recommended the establishment of voluntary labor exchanges by the government to supply ginneries and traders engaged in the transport of cotton.

[20] There is a Union of Associations in Uganda, patterned after the Kenya Convention, composed of the Chamber of Commerce, the Ginners' Association, the Planters' Association, and the Indian Association.

with white recruiters who were paid six shillings for each boy recruited.[21] Each planter must pay one hundred shillings to join the organization. The total cost of recruiting each boy is from fifteen to eighteen shillings, compared with twenty-five shillings expended by the newly established government bureau for government labor. This is why many settlers oppose government recruiting. During the last six months of 1925, the organization recruited about one thousand men to meet a demand for six or seven thousand men in agriculture, not including ginneries.

The law helps the planters to a greater extent than in Kenya, since in Uganda desertion is an offense cognizable to the police.[22] Inasmuch as it is necessary to prove that a native has left employment "with intent not to return thereto," it is, however, difficult to get convictions. Meanwhile the planters continue to agitate for registration and for the other restrictive measures imposed upon the natives in Kenya. The planters feel that native agriculture is incompatible with European interests.

Nevertheless, the visitor cannot help feeling that much of the labor difficulty in Uganda is due to the attitude of the employer, whether private or public, who still insists upon paying a wage much under the wage which would be paid if the law of supply and demand operated in Africa. From the beginning of the white occupation of Africa, planters' and recruiters' associations have made a practice of arbitrarily fixing wages.[23] As their labor was secured under some form of "pressure," and as they imagined that the natives did not understand the value of money, they fixed the sum at a figure considerably below what it should be in an open market. As a result, they got inefficient labor; and since labor was inefficient, they hired it in much larger quantities than otherwise would have been necessary. To-day they have become accustomed to cheap and abundant but ineffectual

[21] The Master and Servants Ordinance lays down requirements for recruiters, and Amendment No. 19 of 1925 requires a labor agent to produce authorization to recruit for proposed employers. The provincial commissioner must be satisfied that the terms of employment are satisfactory. A labor agent cannot take any native recruited by him out of the district without a written contract with the native stating these terms.

Another amendment of the Master and Servants Ordinance, No. 15 of 1923, says that thirty-day contracts must be executed within forty-two days, following the Kenya legislation.

[22] Section 43 (1) (5) of the Master and Servants Ordinance, 1913 (Chap. 55, *Laws*, Vol. I, p. 560), says: "Any servant shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding one hundred and fifty shillings in case he shall be convicted of any of the following acts: . . . (5) If he shall without lawful cause depart from his employer's service with intent not to return thereto. Notwithstanding anything in this Ordinance to the contrary, any act or instance of misconduct under the provisions of this subsection shall be a cognizable offence, and a Police officer may arrest without warrant a person accused of such an offence. . . ."

[23] For example, the Singo Planters Association (*Second Annual Report*, 1915), fixed a maximum wage for labor at four rupees per month.

labor. They all now sturdily assert that increased wages would not increase the supply since the wants of a native are fixed and since he will work only long enough to satisfy those wants. This reasoning certainly under-estimates the native's acquisitive capacity, which is rapidly becoming that of the white man. At the present time, there is no incentive for a native to go out and perform steady labor for a white employer at twelve shillings a month (which is about seven dollars a year), living under an industrial régime, when he can make anywhere from ten to one hundred dollars a year growing cotton on his shambas by working several hours a day during five or six months of a year, and being assisted by his womenfolk. What white man under these circumstances would prefer to work for an alien employer?

APPENDIX—UGANDA

XV. THE UGANDA AGREEMENT—1900

APPENDIX XV

The Uganda Agreement, 1900.

We, the undersigned, to wit, Sir Henry Hamilton Johnston, K.C.B., Her Majesty's Special Commissioner, Commander-in-Chief and Consul-General for the Uganda Protectorate and the adjoining territories, on behalf of Her Majesty the Queen of Great Britain and Ireland, Empress of India, on the one part; and the undermentioned Regents and Chiefs of the Kingdom of Uganda on behalf of the Kabaka (King) of Uganda, and the chiefs and people of Uganda, on the other part: do hereby agree to the following Articles relative to the government and administration of the Kingdom of Uganda.[1]

1. The boundaries of the Kingdom of Uganda shall be the following. . . .

2. The Kabaka and chiefs of Uganda hereby agree henceforth to renounce in favour of Her Majesty the Queen any claims to tribute they may have had on the adjoining provinces of the Uganda Protectorate.

3. The Kingdom of Uganda in the administration of the Uganda Protectorate shall rank as a province of equal rank with any other provinces into which the Protectorate may be divided.

4. The revenue of the Kingdom of Uganda, collected by the Uganda Administration, will be merged in the general revenue of the Uganda Protectorate, as will that of the other provinces of this Protectorate.

5. The laws made for the general governance of the Uganda Protectorate by Her Majesty's Government will be equally applicable to the Kingdom of Uganda, except in so far as they may in any particular conflict with the terms of this agreement, in which case the terms of this agreement will constitute a special exception in regard to the Kingdom of Uganda.

6. So long as the Kabaka, chiefs, and people of Uganda shall conform to the laws and regulations instituted for their governance by Her Majesty's Government, and shall co-operate loyally with Her Majesty's Government in the organisation and administration of the said Kingdom of Uganda, Her Majesty's Government agrees to recognise the Kabaka of Uganda as the native ruler of the province of Uganda under Her Majesty's protection and over-rule. The King of Uganda shall henceforth be styled His Highness the Kabaka of Uganda. On the death of a Kabaka, his successor shall be elected by a majority of votes in the Lukiko, or native council. The range of selection, however, must be limited to the Royal Family of Uganda, that is to say, to the descendants of King Mutesa. The name of the person chosen by the native council must be submitted to Her Majesty's Government for approval,

[1] Now known as Buganda: proclamation of 27th June, 1908.

and no person shall be recognised as Kabaka of Uganda whose election has not received the approval of Her Majesty's Government. The Kabaka of Uganda shall exercise direct rule over the natives of Uganda, to whom he shall administer justice through the Lukiko, or native council, and through others of his officers in the manner approved by Her Majesty's Government. The jurisdiction of the native Court of the Kabaka of Uganda, however, shall not extend to any person not a native of the Uganda province. The Kabaka's Courts shall be entitled to try natives for capital crimes, but no death sentence may be carried out by the Kabaka, or his Courts, without the sanction of Her Majesty's representative in Uganda. Moreover, there will be a right of appeal from the native Courts to the principal Court of Justice established by Her Majesty in the Kingdom of Uganda as regards all sentences which inflict a term of more than five years' imprisonment or a fine of over £100. In the case of any other sentences imposed by the Kabaka's Courts, which may seem to Her Majesty's Government disproportioned or inconsistent with humane principles, Her Majesty's representative in Uganda shall have the right of remonstrance with the Kabaka, who shall, at the request of the said representative, subject such sentence to reconsideration.

The Kabaka of Uganda shall be guaranteed by Her Majesty's Government from out of the local revenue of the Uganda Protectorate a minimum yearly allowance of £1,500 a year. During the present Kabaka's minority, however, in lieu of the above-mentioned subvention, there will be paid to the master of his household, to meet his household expenditure, £650 a year, and during his minority the three persons appointed to act as Regents will receive an annual salary of £400 a year. Kabakas of Uganda will be understood to have attained their majority when they have reached the age of 18 years. The Kabaka of Uganda shall be entitled to a salute of nine guns on ceremonial occasions when such salutes are customary.

7. The Namasole, or mother of the present Kabaka (Chua), shall be paid during her lifetime an allowance at the rate of £50 a year. This allowance shall not necessarily be continued to the mothers of other Kabakas.

8. All cases, civil or criminal, of a mixed nature, where natives of the Uganda province and non-natives of that province are concerned, shall be subject to British Courts of Justice only.

9. For purposes of native administration the Kingdom of Uganda shall be divided into the following districts or administrative counties:—

1. Kiagwe.
2. Bugerere.
3. Bulemezi.
4. Buruli.
5. Bugangadzi.
6. Buyaga.
7. Bwekula.
8. Singo.
9. Busuju.
10. Gomba (Butunzi).
11. Butambala (Bweya).
12. Kiadondo.
13. Busiro.
14. Mawokta.

15. Buvuma.
16. Sese.
17. Buddu.
18. Koki.
19. Mawogola.
20. Kabula.

At the head of each county shall be placed a chief who shall be selected by the Kabaka's Government, but whose name shall be submitted for approval to Her Majesty's representative. This chief, when approved by Her Majesty's representative, shall be guaranteed from out of the revenue of Uganda a salary at the rate of £200 a year.[2] To the chief of a county will be entrusted by Her Majesty's Government, and by the Kabaka, the task of administering justice amongst the natives dwelling in his country,[3] the assessment and collection of taxes, the up-keep of the main roads, and the general supervision of native affairs. On all questions but the assessment and collection of taxes the chief of the county will report direct to the King's native ministers, from whom he will receive his instructions. When arrangements have been made by Her Majesty's Government for the organisation of a police force in the province of Uganda, a certain number of police will be placed at the disposal of each chief of a county to assist him in maintaining order. For the assessment and payment of taxes, the chief of a county shall be immediately responsible to Her Majesty's representative, and should he fail in his duties in this respect, Her Majesty's representative shall have the right to call upon the Kabaka to dismiss him from his duties and to appoint another chief in his stead. In each county an estate, not exceeding an area of eight square miles, shall be attributed to the chieftainship of a county, and its usufruct shall be enjoyed by the person occupying, for the time being, the position of chief of the county.

10. To assist the Kabaka of Uganda in the government of his people he shall be allowed to appoint three native officers of state, with the sanction and approval of Her Majesty's representative in Uganda (without whose sanction such appointments shall not be valid):—A Prime Minister, otherwise known as Katikiro; a Chief Justice; and a Treasurer or Controller of the Kabaka's revenues. These officials shall be paid at the rate of £300 a year. Their salaries shall be guaranteed them by Her Majesty's Government from out of the funds of the Uganda Protectorate. During the minority of the Kabaka these three officials shall be constituted the Regents, and when acting in that capacity shall receive salary at the rate of £400 a year. Her Majesty's chief representative in Uganda shall at any time have direct access to the Kabaka, and shall have the power of discussing matters affecting Uganda with the Kabaka alone or, during his minority, with the Regents; but ordinarily the three officials above designated will transact most of the Kabaka's business with the Uganda Administration. The Katikiro shall be *ex officio* the President of the Lukiko, or native council; the Vice-President of the Lukiko shall be the native Minister of Justice for the time being; in the absence of

[2] See the Uganda (Payment to Chiefs) Agreement, 1908.
[3] See The Uganda Agreement (Judicial), 1905.

both Prime Minister and Minister of Justice, the Treasurer of the Kabaka's revenues, or third minister, shall preside over the meetings of the Lukiko.

11. The Lukiko, or native council, shall be constituted as follows:—

In addition to the three native ministers, who shall be *ex officio* senior members of the council, each chief of a county (twenty in all) shall be *ex officio* a member of the council. Also each chief of a county shall be permitted to appoint a person to act as his lieutenant in this respect to attend the meetings of the council during his absence, and to speak and vote in his name. The chief of a county, however, and his lieutenant may not both appear simultaneously, at the council. In addition, the Kabaka shall select from each county three notables, whom he shall appoint during his pleasure, to be members of the Lukiko or native council. The Kabaka may also, in addition to the foregoing, appoint six other persons of importance in the country to be members of the native council. The Kabaka may at any time deprive any individual of the right to sit on the native council, but in such a case shall intimate his intention to Her Majesty's representative in Uganda, and receive his assent thereto before dismissing the member. The functions of the council will be to discuss all matters concerning the native administration of Uganda, and to forward to the Kabaka resolutions which may be voted by a majority regarding measures to be adopted by the said administration. The Kabaka shall further consult with Her Majesty's representative in Uganda before giving effect to any such resolutions voted by the native council, and shall, in this matter, explicitly follow the advice of Her Majesty's representative. The Lukiko, or a committee thereof, shall be a Court of Appeal from the decisions of the Courts of First Instances held by the chiefs of counties.[4] In all cases affecting property exceeding the value of £5, or imprisonment exceeding one week, an appeal for revision may be addressed to the Lukiko. In all cases involving property or claims exceeding £100 in value, or a sentence of imprisonment exceeding five years, or sentences of death, the Lukiko shall refer the matter to the consideration of the Kabaka, whose decision when countersigned by Her Majesty's chief representative in Uganda shall be final.[5] The Lukiko shall not decide any questions affecting the persons or property of Europeans or others who are not natives of Uganda. No person may be elected to the Lukiko who is not a native of the Kingdom of Uganda. No question of religious opinion shall be taken into consideration in regard to the appointment by the Kabaka of members of the Council. In this matter he shall use his judgment and abide by the advice of Her Majesty's representative, assuring in this manner a fair proportionate representation of all recognised expressions of religious belief prevailing in Uganda.

12. In order to contribute to a reasonable extent towards the general cost of the maintenance of the Uganda Protectorate, there shall be established the following taxation for Imperial purposes, that is to say, the proceeds of the collection of these taxes shall be handed over intact to Her Majesty's

[4] See now The Uganda Agreement (Judicial), 1905.
[5] Cf. Article 6, the Uganda Agreement (Judicial), 1905, Article 4.

representative in Uganda as the contribution of the Uganda province towards the general revenue of the Protectorate.

The taxes agreed upon at present shall be the following:—

(*a*) A hut tax of three rupees, or 4s. per annum, on any house, hut, or habitation, used as a dwelling place.[6]

(*b*) A gun tax of three rupees, or 4s. per annum, to be paid by any person who possesses or uses a gun, rifle, or pistol.

The Kingdom of Uganda shall be subject to the same Customs Regulations, Porter Regulations, and so forth, which may, with the approval of Her Majesty, be instituted for the Uganda Protectorate generally, which may be described in a sense as exterior taxation, but no further interior taxation, other than the hut tax, shall be imposed on the natives of the province of Uganda without the agreement of the Kabaka, who in this matter shall be guided by the majority of votes in his Native Council. This arrangement, however, will not affect the question of township rates, lighting rates, water rates, market dues, and so forth, which may be treated apart as matters affecting municipalities or townships; nor will it absolve natives from obligations as regards military service, or the up-keep of main roads passing through the lands on which they dwell. A hut tax shall be levied on any building which is used as a dwelling place. A collection of not more than four huts, however, which are in a separate and single enclosure and are inhabited only by a man and his wife, or wives, may be counted as one hut. The following buildings will be exempted from the hut tax: temporary shelters erected in the fields for the purpose of watching plantations; or rest houses erected by the roadside for passing travellers; buildings used solely as tombs, churches, mosques, or schools, and not slept in or occupied as a dwelling: the residence of the Kabaka and his household (not to exceed fifty buildings in number; the residence of the Namasole, or Queen Mother (not to exceed twenty in number); the official residences of the three native Ministers, and of all the chiefs of counties (not to exceed ten buildings in number); but in the case of dispute as to the liability of a building to pay hut tax, the matter must be referred to the Collector for the province of Uganda, whose decision must be final. The Collector of a province may also authorise the chief of a county to exempt from taxation any person whose condition of destitution may, in the opinion of the Collector, make the payment of such tax an impossibility. By Collector is meant the principal British official representing the Uganda Administration in the province of Uganda. The representative of Her Majesty's Government in the Uganda Protectorate may from time to time direct that in the absence of current coin, a hut or gun tax may be paid in produce or in labour according to a scale which shall be laid down by the said representative. As regards the gun tax, it will be held to apply to any person who possesses or makes use of a gun, rifle, pistol, or any weapon discharging a projectile by the aid of gunpowder, dynamite, or compressed air.

[6] Poll tax has now been substituted for Hut tax. See Uganda Agreement (Poll Tax) 1920.

The possession of any cannon or machine gun is hereby forbidden to any native of Uganda. A native who pays a gun tax may possess or use as many as five guns. For every five or for every additional gun up to five, which he may be allowed to possess or use, he will have to pay another tax. Exemptions from the gun tax will, however, be allowed to the following extent:—

The Kabaka will be credited with fifty gun licenses free, by which he may arm as many as fifty of his household. The Queen Mother will, in like manner, be granted ten free licenses annually, by which she may arm as many as ten persons of her household; each of the three native ministers (Katikiro, Native Chief Justice, and Treasurer of the Kabaka's revenue) shall be granted twenty free gun licenses annually, by which they may severally arm twenty persons of their household. Chiefs of counties will be similarly granted ten annual free gun licenses; all other members of the Lukiko or native council, not chiefs of counties, three annual gun licenses, and all landed proprietors in the country, with estates exceeding 500 acres in extent, one free annual gun license.

13. Nothing in this agreement shall be held to invalidate the pre-existing right of the Kabaka of Uganda to call upon every able-bodied male among his subjects for military service in defence of the country; but the Kabaka henceforth will only exercise this right of conscription, or of levying native troops, under the advice of Her Majesty's principal representative in the Protectorate. In times of peace, the armed forces, organised by the Uganda Administration will probably be sufficient for all purposes of defence; but if Her Majesty's representative is of opinion that the force of Uganda should be strengthened at any time, he may call upon the Kabaka to exercise in a full or in a modified degree his claim on the Baganda people for military service. In such an event the arming and equipping of such force would be undertaken by the administration of the Uganda Protectorate.

14. All main public roads traversing the Kingdom of Uganda, and all roads the making of which shall at any time be decreed by the native council with the assent of Her Majesty's representative, shall be maintained in good repair by the chief of the Saza (or county) through which the roads run. The chief of a county shall have the right to call upon each native town, village, or commune, to furnish labourers in the proportion of one to every three huts or houses, to assist in keeping the established roads in repair, provided that no labourers shall be called upon to work on the roads for more than one month in each year. Europeans and all foreigners whose lands abut on established main roads, will be assessed by the Uganda Administration and required to furnish either labour or to pay a labour rate in money as their contribution towards the maintenance of the highways. When circumstances permit, the Uganda Administration may further make grants from out of its Public Works Department for the construction of new roads or any special repairs to existing highways, of an unusually expensive character.

15. The land of the Kingdom of Uganda shall be dealt with in the following manner:—

Assuming the area of the Kingdom of Uganda, as comprised within the limits cited in this agreement, to amount to 19,600 square miles, it shall be divided in the following proportions:—

	Square miles.	Square miles.
Forests to be brought under control of the Uganda Administration...		1,500
Waste and uncultivated land to be vested in Her Majesty's Government, and to be controlled by the Uganda Administration.....		9,000
Plantations and other private property of His Highness the Kabaka of Uganda		350
Plantations and other private property of the Namasole.....		16
(*Note.*—If the present Kabaka died and another Namasole were appointed, the existing one would be permitted to retain as her personal property 6 square miles, passing on 10 square miles as the endowment of every succeeding Namasole.)		
Plantations and other private property of the Namasole, mother of Mwanga		10
To the Princes: Joseph, Augustine, Ramazan, and Yusufu-Suna, 8 square miles each		32
For the Princesses, sisters, and relations of the Kabaka.....		90
To the Abamasaza (chiefs of counties) twenty in all, 8 square miles each (private property)	160	
Official estates attached to the posts of the Abamasaza, 8 square miles each	160	
		320
The three Regents will receive private property to the extent of 16 square miles each	48	
And official property attached to their office, 16 square miles each, the said official property to be afterwards attached to the posts of the three native ministers.....	48	
		96
Mbogo (the Muhammedan chief) will receive for himself and his adherents		24
Kamswaga, chief of Koki, will receive.....		20
One thousand chiefs and private landowners will receive the estates of which they are already in possession, and which are computed at an average area of 8 square miles per individual, making a total of		8,000
There will be allotted to the three missionary societies in existence in Uganda as private property, and in trust for the native churches, as much as		92
Land taken up by the Government for Government stations prior to the present settlement (at Kampala, Entebbe, Masaka, etc., etc.)..		50
Total		19,600

After a careful survey of the Kingdom of Uganda has been made, if the total area should be found to be less than 19,600, then that portion of the country which is to be vested in Her Majesty's Government shall be reduced in extent by the deficiency found to exist in the estimated area. Should, however, the area of Uganda be established at more than 19,600 square miles, then the surplus shall be dealt with as follows:—

It shall be divided into two parts, one-half shall be added to that amount of land which is vested in Her Majesty's Government, and the other half will be divided proportionately among the properties of the Kabaka, the three Regents or Native Ministers, and the Abamasaza, or chiefs of counties.

The aforesaid 9,000 square miles of waste or cultivated, or uncultivated land, or land occupied without prior gift of the Kabaka or chiefs by bakopi or strangers, are hereby vested in Her Majesty the Queen of Great Britain and Ireland, Empress of India, and Protectress of Uganda, on the understanding that the revenue derived from such lands shall form part of the general revenue of the Uganda Protectorate.

The forests, which will be reserved for Government control, will be, as a rule, those forests over which no private claim can be raised justifiably, and will be forests of some continuity, which should be maintained as woodland in the general interests of the country.

As regards the allotment of the 8,000 square miles among the 1,000 private landowners, this will be a matter to be left to the decision of the Lukiko, with an appeal to the Kabaka. The Lukiko will be empowered to decide as to the validity of claims, the number of claimants and the extent of land granted, premising that the total amount of land thus allotted amongst the chiefs and accorded to native landowners of the country is not to exceed 8,000 square miles.

Europeans and non-natives, who have acquired estates, and whose claims thereto have been admitted by the Uganda Administration, will receive title-deeds for such estates in such manner and with such limitations, as may be formulated by Her Majesty's representative. The official estates granted to the Regents, Native Ministers, or chiefs of counties, are to pass with the office, and their use is only to be enjoyed by the holders of the office.

Her Majesty's Government, however, reserves to itself the right to carry through or construct roads, railways, canals, telegraphs, or other useful public works, or to build military forts or works of defence on any property, public or private, with the condition that not more than 10 per cent. of the property in question shall be taken up for these purposes without compensation, and that compensation shall be given for the disturbance of growing crops or of buildings.

16. Until Her Majesty's Government has seen fit to devise and promulgate forestry regulations, it is not possible in this agreement to define such forest rights as may be given to the natives of Uganda; but it is agreed on behalf of Her Majesty's Government, that in arranging these forestry regulations, the claims of the Baganda people to obtain timber for building purposes,

firewood, and other products of the forests or uncultivated lands, shall be taken into account, and arrangements made by which under due safeguards against abuse these rights may be exercised gratis.

17. As regards mineral rights: The rights to all minerals found on private estates shall be considered to belong only to the owners of those estates, subject to a 10 per cent. *ad valorem* duty, which will be paid to the Uganda Administration when the minerals are worked. On the land outside private estates, the mineral rights shall belong to the Uganda Administration, which, however, in return for using or disposing of the same must compensate the occupier of the soil for the disturbance of growing crops or buildings, and will be held liable to allot to him from out of the spare lands in the Protectorate an equal area of soil to that from which he has been removed. On these waste and uncultivated lands of the Protectorate, the mineral rights shall be vested in Her Majesty's Government as represented by the Uganda Administration. In like manner the ownership of the forests, which are not included within the limits of private properties, shall be henceforth vested in Her Majesty's Government.

18. In return for the cession to Her Majesty's Government of the right of control over 10,550 square miles of waste, cultivated, uncultivated, or forest lands, there shall be paid by Her Majesty's Government in trust for the Kabaka (upon his attaining his majority) a sum of £500, and to the three Regents collectively, £600, namely, to the Katikiro £300, and the other two regents £150 each.

19. Her Majesty's Government agrees to pay to the Muhammedan Uganda chief, Mbogo, a pension for life of £250 a year, on the understanding that all rights which he may claim (except such as are guaranteed in the foregoing clauses) are ceded to Her Majesty's Government.

20. Should the Kingdom of Uganda fail to pay to the Uganda Administration during the first two years after the signing of this agreement, an amount of native taxation, equal to half that which is due in proportion to the number of inhabitants; or should it at any time fail to pay without just cause or excuse, the aforesaid minimum of taxation due in proportion to the population; or should the Kabaka, chiefs, or people of Uganda, pursue, at any time, a policy which is distinctly disloyal to the British Protectorate; Her Majesty's Government will no longer consider themselves bound by the terms of this Agreement.

On the other hand, should the revenue derived from the hut and gun tax exceed two years running a total value of £45,000 a year, the Kabaka and chiefs of counties shall have the right to appeal to Her Majesty's Government for an increase in the subsidy given to the Kabaka, and the stipends given to the native ministers and chiefs, such increase to be in the same proportional relation as the increase in the revenue derived from the taxation of the natives.

21. Throughout this Agreement the phrase "Uganda Administration" shall be taken to mean that general government of the Uganda Protectorate, which is instituted and maintained by Her Majesty's Government; "Her

Majesty's representative" shall mean the Commissioner, High Commissioner, Governor, or principal official of any designation who is appointed by Her Majesty's Government to direct the affairs of Uganda.

22. In the interpretation of this agreement the English text shall be the version which is binding on both parties.

Done in English and Luganda at Mengo, in the Kingdom of Uganda, on the 10th March, 1900.

SECTION VII

NIGERIA

CHAPTER 36

GENERAL ADMINISTRATION

1. *Population*

As it exists to-day—a vast territory extending from Lagos to Lake Chad—Nigeria is the largest colony in Africa, having a total area in the neighborhood of 365,000 square miles—about as large as the British Isles, France, and Belgium together—and a population of 18,000,000 or 19,000,000 people. Next to India, Nigeria is the most populous British possession in the world.

In the north one find comparatively civilized Moslem peoples, such as the Hausa, the Fulani, the Kanuri, and the Nupe, together with two hundred and fifty animist pagan tribes. The most widely distributed of these people, the Hausas, dominate the social and economic life of the country. Except for the Fulani which have kept their Hamitic blood comparatively free from negro mixture, and of the Kanuri who are of Berber extraction, the other tribes of the north belong to the negroid group.[1]

In southern Nigeria, the population is composed largely of negroes or Sudanese. The two largest tribes are the Ibos who total almost 4,000,000, and the Yorubas who number 2,114,000.[2] The Northern Provinces—formerly the protectorate of Northern Nigeria—now have a population of about 10,300,000; while the Southern Provinces have about 8,147,000. These figures, however, are tentative because of the tremendous difficulties in conducting a census over such an area. An early estimate placed the population of Northern Nigeria at about 20,000,000, but it was soon reduced to 9,161,700 in 1904 and to 7,164,751 in 1906. The 1911 census put the figure at 8,115,981, which was changed to 9,274,981.[3] The first serious census was only taken in 1921, showing a population of 9,998,314, so that it is impossible to state whether the population of northern Nigeria

[1] The two main racial divisions in Africa are the Bantus who occupy Africa as far north as the Cameroons, and the negroes proper who extend between the Sahara desert and the Cameroons. The physical differences between the races are slight. But there is a difference in language and in institutions, i.e. most of the leading native states are found among the negroes.

[2] P. A. Talbot, *The Peoples of Southern Nigeria,* London, 1926, Vol. IV, p. 18.

[3] C. K. Meek, *The Northern Tribes of Nigeria,* London, 1925, Vol. II, p. 169.

has increased or decreased during the last twenty years. Partly because of epidemics, particularly the influenza epidemic of 1918, it is probable that the population of southern Nigeria is to-day about the same as in 1911.[4]

In contrast to northern Nigeria and, for that matter, to the rest of Africa, southern Nigeria is notable because about five-eighths of the native inhabitants live in towns. There are eighty-four towns in southern Nigeria having a population of between 10,000 and 20,000. Nineteen towns have between 20,000 and 50,000 inhabitants each. Ibadan is the largest town, having in 1921 a population of 136,705. Lagos comes next with 99,690. The existence of these large towns is due apparently to a desire of the people originally for mutual protection, and also to their strongly developed social life. Most of the people are farmers having their fields located a few miles from the city. Whatever advantage the city may possess from the standpoint of administration, the dense population makes it difficult to combat disease. For some reason the population of these towns has fallen off considerably since 1911. Thus the population of Abeokuta has dropped from 51,255 to 28,941, and of Ibadan from 175,000 to 136,705.[5]

2. *Administrative Organization*

The present colony and protectorate of Nigeria was constituted only in 1914. Before that date this part of Africa was divided into the colony and protectorate of Southern Nigeria, and the protectorate of Northern Nigeria, each independent of the other. The British government annexed Lagos in 1861, and it established the protectorates in 1900.[6]

Owing to financial difficulties and to conflicts over railway policy, the British government instructed the Governor-General, Sir Frederick Lugard, to bring about an amalgamation, which was accomplished in 1914. The whole of Nigeria was, thereupon, placed under the control of a governor[7] with a Lieutenant-Governor in charge of the northern and southern provinces. The Lieutenant-Governor also acted as the administrator of the Colony.[8] The capital of the northern provinces is Kaduna, while Lagos is the capital of the southern provinces and the seat of the central government. Plans have been made, however, for moving the capital of the southern provinces to an inland point.

Before 1920, the Governor-General ruled through the two Lieutenant-

[4] Talbot, *cited,* Vol. IV, p. 7.

[5] *Ibid.,* p. 13.

[6] Before 1906 the colony of Lagos was independent of the protectorate of Southern Nigeria, but in that year they were merged.

[7] Sir Frederick Lugard, however, bore the personal title of Governor-General.

[8] The two Lieutenant-Governors and the administrator are granted certain specific powers under various proclamations or Ordinances. *Nigeria General Orders I and II* (1915), pp. 457 ff. See also *Laws of Nigeria,* 1923, Vol. III, p. 2. Hereafter cited as *Laws.*

Governors, having also directly under him a Central Secretariat which dealt with the word of certain combined departments, such as railways and treasury. But so many differences arose that in that year a Nigerian Secretariat was established, headed by an official called the Chief Secretry, ranking next to the Governor. The business of the secretariat is to overlook the whole administrative machinery. Having no executive powers, the Chief Secretary is the principal adviser of the Governor. Orders emanating from the Governor are transmitted through the Chief Secretary.[9]

In every government in Africa difficulties frequently arise between the conflicting jurisdiction of the political officers, who perform general administrative duties, and departmental experts, such as officers in the Public Works Department and in the Department of Public Health. The Governor is, of course, supreme over both the political and the departmental services. But the question arose in establishing a federal type of government in Nigeria whether separate departments should be created responsible to the Lieutenant-Governor of each province, or whether all departments should continue to be directed from Lagos, under the immediate control of the Governor. Except for education and police, the latter alternative was adopted. But, according to the Governor, the plan at first led to an undesirable centralization of public business at Lagos which is "exercising a paralyzing effect upon the members of the Public Service and upon the efficient transaction of administrative affairs. A system has sprung up of rigid severance between the Political and Non-Political Branches of the Administration. Heads of Departments have shown a tendency to resent what they have learned to regard as the interference of Political Officers with the Officers of the Departments serving in the Provinces which are under the administrative charge of the former; and in some instances, information of local interest and importance has been denied to Departmental Officers by Residents" and vice versa.[10] In order to decentralize administration, the Governor issued an order to the effect that . . . "It will be the business of the Lieutenant-Governor to overlook the entire administrative machine and to supervise in the interests of the Government and of the public, every branch of political or departmental activity in the group of Provinces under their administration . . . and save in purely departmental or technical matters they will be at liberty should the neces-

[9] Cf. *Nigerian Council, Address by the Governor,* December 29, 1920, p. 5. The Nigerian Secretariat also has a Secretary for Native Affairs who, together with the Chief Secretary, advises the Lieutenant-Governors upon matters of policy. A Lieutenant-Governor, wishing to communicate with the Governor, does so through his own secretariat and through the Chief Secretary. If necessary, however, he may address the Governor direct.

[10] *Ibid.,* p. 14.

sity arise, to give direct orders to officers belonging to the Non-Political Departments, who for the time being are serving in those Provinces. Any such orders, together with a statement of the reasons for them, should in every case be immediately reported by the Secretariat of the Lieutenant-Governor concerned to the Head of the Department to whose officers they have been given. . . . Orders issued by Lieutenant-Governor in the Provinces under his administration, however, must not be cancelled by a Head of a Department without first being referred to the Chief Secretary to Government for decision."[11] These instructions have not, however, entirely removed conflicts between the political and departmental authorities, especially in regard to native administration.[12]

There are twenty-two provinces in Nigeria, eleven in the south and eleven in the north.[13] Each province is in turn divided into "divisions," of which there are eighty-one. There is one political officer on duty to every hundred thousand people in northern Nigeria, while there is one such officer for every seventy thousand people in the south. There are fewer officers per population in Nigeria than in any other well-administered colony in Africa. It is possible to administer units of this large size because of the extent to which the government utilizes native institutions.[14]

The federal principle is found not only in the relation of the Lieutenant-Governors to the Governor, but also within the provinces. Each province is headed by a Senior Resident or a Resident, responsible to the Lieutenant-Governor, who receive a salary of 1400 pounds and 1200 pounds respectively, plus several hundred pounds "duty pay."[15] Each division is headed by a district officer in turn responsible to the Resident of the Province.

"The Resident of a Province is, within the limits of that Province, its Principal Executive Officer of Government, and is personally and directly responsible to the Lieutenant-Governor under whom he is serving, for the peace, tranquillity and good order of his Province, and for the efficient execution of all public business which at any time is being carried on within it. In case of emergency, of which the Resident must be accepted as the sole judge, when immediate action is necessary, and reference cannot be had to higher authority, a Resident may, on his own responsibility, issue

[11] Minute of Governor, November 21, 1920, revised, *Nigeria Gazette, Extraordinary,* March 12, 1925.

[12] Cf. Vol. I, p. 725.

[13] The number of provinces in the north was reduced from twelve to eleven in 1926. *Annual General Report, Nigeria,* 1926, p. 5.

[14] Cf. Vol. I, p. 688.

[15] The Lieutenant-Governors receive 2400 pounds and the Governor, 6500 pounds, plus 1750 pounds duty pay. Quarters are furnished all officials.

orders designed to meet the situation, and these must be accepted and acted upon by those to whom they are addressed." [16]

As a rule, European traders in Nigeria live in especially established townships of which there are three classes.[17] Lagos is the only first class township; but there are seventeen second class and thirty-five third class townships throughout Nigeria.[18]

While the Government may establish elective councils in the first class townships, a specially appointed officer, called the Station Magistrate, administers the second and third class townships. Townships come under British and not native law, and the officer in charge is usually a Commissioner of the Supreme Court. Legislation for Nigeria is enacted, as far as the colony and southern provinces are concerned, by a Legislative Council,[19] subject to the control of an official majority, the veto of the Governor, and the disallowance of the Crown. Legislation for northern Nigeria is enacted by the Governor.

3. *The Judicial System*

Judicial power is invested in three classes of courts, each of which has original and complete jurisdiction within the limits assigned to it—the Supreme Court, the Provincial Courts, and the Native Courts. The Supreme Court consists of the Chief Justice and four "Puisne" judges of Nigeria.[20] With certain exceptions, its jurisdiction is limited to the Colony and certain important trading centers in the protectorate. The Supreme Court takes various forms, the first of which is the Full Court, consisting of the Chief Justice and two or more judges, which forms a Court of Appeal from the decisions of the Divisional Courts. While the jurisdiction of the Full Court is final in criminal matters, appeals in civil cases may be taken to the Privy Council. The Supreme Court is divided into two divisional courts, one for the Eastern provinces, i.e., those lying east of the Niger and south of the Benue; and one for the Western provinces. Assizes are held by different justices twice a year in each division at places designated by the Chief Justice. By this means political officers are relieved of much judicial work which has little to do with native affairs. Moreover, each Station Magistrate is a Commissioner of the Supreme Court—i.e., he may try civil cases where the debt or claim does not exceed 50 pounds, and criminal cases where the sentence is not more than six months imprisonment, a fine of 50 pounds or twelve strokes. An appeal

[16] Minute of Governor, *cited.*
[17] Townships Ordinance, 1917, Chap. 57, *Laws.*
[18] *The Nigeria Handbook,* 1925, Lagos, p. 192.
[19] Cf. Vol. I, p. 738.
[20] The Chief Justice and Puisne judges of the Gold Coast are ex officio puisne members.

may be taken from the Commissioner's Court to the Divisional Court; while monthly lists of criminal cases are transmitted to the Chief Justice.[21]

In contrast to this Supreme Court system is what is called the Provincial Court system. Except in the local limits of the Supreme Court a Provincial Court has complete jurisdiction over all natives and non-natives. The Resident of the Province is President of the court; and district officers are commissioners. A Resident not in charge of the Province has jurisdiction in civil cases up to £100—a District Officer or Assistant District Officer, up to £50, and other commissioners up to £25.[22] A Criminal Code defines this jurisdiction.[23] These three classes of officials may respectively impose (a) £100 fine, five years' imprisonment and flogging; (b) £50 fines, two years' and flogging; and (c) £25, three months and twelve strokes. There is no limit to the number of officers who may be appointed commissioners of the Provincial Court. Sessions may be held at any place within the province, except in the Supreme Court areas. Monthly lists of criminal cases of each court must be returned to the Governor;—which operates as an appeal of each court and no sentence of death (if, indeed, the power is granted to the Provincial Court), imprisonment over six months, fine over £50, or flogging over twelve strokes, or judgment in a civil suit between natives involving rights over land exceeding ten acres, or any privilege of a native chief, can be carried out by a Provincial Court until confirmed by the Governor who may delegate these powers to the Chief Justice. A party to a civil case has a right to appeal [24] to the Supreme Court, and a case may be transferred from the Provincial to the Supreme Court.

No legal practitioner is allowed to appear before the Provincial Court (Sec. 33) or on appeal to the Supreme Court without the consent of the Chief Justice. It is the duty of the judge—an administrative officer—to watch the interests of the accused. "The object of this restriction is to check the fomenting of litigation by lawyers' touts which, by a consensus of opinion, has become a public scandal in the Southern Provinces, with the natural corollary of rendering litigation extremely costly, to the detriment of litigants and the benefit of lawyers. It also aimed at reducing the delays which in the former Supreme Court were stated by the Chief Justice to be largely due to Counsel." [25] African lawyers and various

[21] Sec. 41, Supreme Court Ordinance.
[22] Sec. 12, Provincial Courts Ordinance, Chap. 4. [23] Chap. 21, *Laws.*
[24] Sec. 23, Provincial Courts Ordinance, Chap. 4, *Laws.*
[25] F. D. Lugard, *Revision of Instructions to Political Officers,* on subjects Chiefly Political and Administrative, 1913-1918, London, 1919, p. 88. Hereafter cited as *Political Memoranda.* See also the memoranda of the Attorney-General and Chief Justice. Report by Sir F. D. Lugard, *Amalgamation of Northern and Southern Nigeria, and Administration, 1912-1919,* Cmd. 468, (1919) pp. 75 ff.

members of the House of Commons have severely criticized this exclusion of counsel from the Provincial Courts—a system which went into effect only in southern Nigeria in 1914—on the ground that it deprives natives of a guaranty recognized in all civilized countries. In Nigeria they assert that natives are sentenced to death without being allowed the assistance of counsel. Between 1922-1924 out of such 382 persons tried for murder, 247 were executed, 82 were pardoned, and 54 cases were discharged or otherwise dealt with.[26] If the district officers or native courts had final authority to administer capital punishment, these complaints might be justified. But all death sentences imposed by the Provincial Courts (and this jurisdiction is vested only in the Resident) are subject to confirmation by the Chief Justice and by the Governor, upon the basis of the record—which is virtually equivalent to an appeal. If the defendant is unsatisfied with this type of appeal he has the right to have his case transferred from the Provincial to the Supreme Court where he may employ counsel. Few natives exercise this choice, preferring to trust their fate to an administrative officer in whose fairness and knowledge they have more confidence than in a severe judicial officer.

In criticizing the present régime African barristers are apparently more concerned about land cases than about murder cases. Persons charged with murder, as a rule, have no money with which to employ counsel. It is quite otherwise with land cases where the parties play for large stakes and where fat fees are the rule when the cases manage to get to the Supreme Court.[27] The ordinary native, living under tribal conditions, does not appear to want the presence of lawyers. In the Judicial Agreements of 1904 between the Egba and the Oyo kingdom and the British Government, both the native kings declared "that it is their strong desire that barristers and solicitors should not be allowed to practice" in the courts authorized in the Agreements. During the World War, the kings of the Yoruba states, when asked for their opinion, again denounced in no uncertain terms the ideas of lawyers practicing in the courts.[28] Lawyers in

[26] Reply to Question by Mr. Briant, March 8, 1926, *House of Commons,* Vol. 192, col. 1949.

[27] Mr. Ormsby-Gore, in his *Visit to West Africa,* Cmd. 2744 (1926) cites one case where a native, "although there was no doubt as to his being the proper occupier of his land, had been compelled to find no less than £700 in legal expenses in order to defend himself against a claim made against him by a stranger egged on by an unscrupulous advocate," p. 118.

[28] The Natal Native Affairs Commission reported that natives with "remarkable unanimity," declared that "lawyers should be debarred from appearing in civil cases." . . . The report further stated: "The ethics of the bar, based on the subtleties of our own law and practice, are beyond the comprehension of these simple people, with the result that the profession, as a whole, bears an evil rather than a good reputation among them. They 'fleece us and teach us lies' is one of their direct and forcible, yet humiliating, expressions toward some members of a

Africa, whether native or European, have been trained in European law. It would appear that with the growing jurisdiction of native courts the need for trained European advocates will diminish in favor of advocates learned in native law. Already the bulk of the judicial work in Nigeria is performed neither by the Supreme Court nor by the Provincial Court, but by a third set of tribunals—the native courts which are discussed elsewhere.[29]

4. *Revenue and Trade*

From the absolute standpoint, Nigeria has the largest trade of any territory in Central Africa—about 25,409,000 pounds in 1925. Its trade exceeds that of French West Africa and of the Belgian Congo.[30] But because of its unusually large population and area, the per capita trade of Nigeria is, with the exception of Nyasaland and Northern Rhodesia, the lowest of any British territory in central Africa. While Nigeria has the largest absolute revenue, its per capita revenue is lower even than that of Northern Rhodesia, and it outranks only Nyasaland.

Nigeria's revenue comes largely from the customs, which produce about 3,300,000 pounds, and the railways, which produce 2,385,000 pounds.[31] The government imposes direct taxation on the natives of Nigeria, except those in parts of the eastern provinces, according to a system described elsewhere. Half of these taxes are turned over to native treasuries, and the other half goes to the British Government. The 1926-27 Estimates placed the latter sum at seven hundred and thirty thousand pounds, which is about ten per cent of the total estimated revenue for 1927 of 7,788,670 pounds.[32] This sum is more than three times the revenue of 2,490,000 pounds in 1911.

The increased export trade and revenue is shown in the following table:

profession which does so much to preserve its honour and dignity. As touching the personal aspect, it should not be overlooked that professional advocacy is something which has been imported for individual and private ends into Native juridical practice, to which it is wholly unknown. Natives have, consequently, a false conception of what the engagement of Counsel really means, it being a common belief among them that the payment of a lawyer's fee is something akin to the purchase of justice, and the higher the fee, the more likely they are to get what is being purchased. But, apart from all this, the customary and legitimate fees for such services are much beyond the means of these people, who have frequently to borrow the amount or dispose of property in order to meet such demands." *Report of the Natal Native Affairs Commission,* 1906-7, Natal, Cd. 3889, p. 25.

[29] Cf. Vol. I, p. 689.

[30] Cf. Vol. I, p. 942.

[31] The railways absorb more than half of the latter figure—1,500,000 pounds—in expenditures.

[32] Excluding railway revenue, the revenue is 5,430,670 pounds. The loans, etc., of Nigeria are given in the table in the Appendix.

TONNAGE OF EXPORTS—1900-1925
and
GOVERNMENT REVENUE—NIGERIA

Year	Principle Exports (Tons)	Per cent Increase over 1900	Revenue £	Per cent Increase over 1914
1900	131,934	0		
1905	161,259	22.3		
1910	255,630	94.0		
1913	287,697	118.0		
1914	265,615	101.4	2,948,381[2]	0
1918	368,321	179.2	3,963,987[2]	34.5
1925	588,898	346.5	6,989,759[1]	137.1[2]

[1] Revenue figures do not include grants-in-aid from the Imperial Government as follows:

1914	£100,000
1918	50,000
1925	Nil

All revenue figures include revenue from operation of railways.

[2] Trade—*Annual Report of the Customs Department of Nigeria,* for 1925, p. 12. Revenue—*Nigeria Estimates,* 1926-27, p. 3.

5. *Taxation*

In return for the 730,000 pounds which the natives pay into the Nigerian Treasury in the form of direct taxes, the government expends on the natives the following sums:

Provincial Administration	Education	Medical work	Agriculture	Total
£522,000	180,000	403,000	83,000	1,118,000[1]

[1] *Nigeria Estimates,* 1926-27, p. 10.

Thus the government returns directly to the natives four hundred and fifty-eight thousand pounds more than the direct taxes which they pay into the general treasury. The excess comes out of indirect taxation, railway revenue, and export and import duties.

In relation to total revenue, expenditures of the Nigerian government on education, medical work, and agriculture are as shown in the table on the following page.

6. *Medical Service*

Despite the fact that about six per cent [33] of Nigeria expenditures go to medical service, the situation in regard to public health is serious. The Nigerian Estimates call for 125 medical officers, but in 1924 there were

[33] In comparison with 11% in the Belgian Congo.

NIGERIAN EXPENDITURE ON NATIVE WELFARE 1926-1927

	Expenditures	Percentage of Total Expenditures	Amount per 100 Inhabitants
Education	£	%	£
Government	180,093	2.42	.977
No. Prov. Native Administration...	34,564	.47	.187
So. Prov. Native Administration...	4,906	.06	.027
Total	219,563	2.95	1.191
Agriculture, Veterinary, and Forestry			
Government Agriculture	83,030	2.40	.969
Government Veterinary	73,679		
Government Forestry	21,826		
No. Prov. Native Administration...	13,188	.18	.071
So. Prov. Native Administration...	4,019	.05	.022
Total	195,742	2.63	1.062
Medical and Sanitary			
Government	403,059	5.43	2.188
No. Prov. Native Administration...	9,687	.13	.052
So. Prov. Native Administration...	6,416	.08	.035
Total	419,162	5.64	2.275
Total	834,467	11.22	4.528[1]

[1] The total expenditures of the government were £6,484,284 (exclusive of expenditures on railways); of the Northern Provinces Native Administration, £709,295; of the Southern Provinces Native Administration, £234,381. These figures make a total of £7,427,960, upon which the percentages given above are based. Cf. *Nigeria Estimates,* 1926-27, pp. 10-11; *Northern Provinces Native Administration Estimates,* 1926-1927, p. 209; *Southern Provinces Native Administration Estimates,* 1926-27.

thirty-five vacancies.[34] Even when this quota is filled, there is only one doctor for every one hundred and sixty thousand people. Under ordinary circumstances, this personnel would be inadequate. But the burden is made unduly great by the epidemics which have recently scourged Nigeria—not only plague, in Lagos, but also cerebro-spinal fever and relapsing fever which have swept across northern Nigeria in the last few years, and as a result of which, according to some estimates, several hundred thousand natives have lost their lives. The medical report for 1924 says: "In Kano and Katsina, where records of deaths are maintained by the Native Administrations, the mortality can be stated to have been appalling. . . ."

[34] *Annual Report of the Medical and Sanitary Department and Medical Research Institute,* 1924, Sessional Paper No. 6 of 1925, p. 5.

While Lagos had a death rate of 23.8 per thousand a year, the death rate in Kano was, largely because of these epidemics, 130 per thousand.[35]

This matter was brought to the attention of the Legislative Council in 1926 by the member from Kano (a European merchant) who said: "I venture to say that if such an appalling state of affairs were made known to the general public both here and at home there would be a general outcry. . . . Cannot something be done for our suffering friends in the north? I do not wish to labour this point, but if we do not take up this question seriously we shall not be doing our duty and we shall be failing to carry out those traditions which are characteristic of the British Colonial Service." [36] The government defended itself by saying that it had made every possible effort to obtain doctors, but without success.[37] But even with a thousand medical officers, no progress can be made until the people are induced to take preventive measures.[38] Medical attention is necessarily a plant of slow growth; it is essential that doctors learn the language of their district and remain continuously within that district. The idea of employing foreign doctors in the colony apparently has not been considered by the British authorities, as it has by the French and the Belgians.[39] Such employment would necessitate the amendment of existing regulations, and it would introduce an alien influence into the colony. But neither of these considerations outweighs the fact that such a policy would result in the saving of human lives which are now being lost.

No one believes, however, that even with foreign help, a sufficient number of European doctors can be persuaded to come to Africa to meet its needs. The natives must learn to save themselves. Recently, a Conference of the West African Medical Staffs agreed to the following statement:

"The conditions in West Africa which call for remedy are much the same in each of the Colonies and Protectorates and also the same as are found in the different countries of French West Africa. Depopulation has occurred by inter-tribal slave raiding and strife as well as by disease. The latter cause is alone operative now and is delaying recovery throughout the countries as a whole, and causing depopulation to extend in some areas. The average density

[35] *Ibid.*, p. 46.

[36] *Legislative Council Debates,* fourth session, 1926, p. 95.

[37] The salary of a medical officer, according to the *Estimates* (p. 42), begins at six hundred and sixty pounds and rises to eleven hundred and fifty pounds. A few also receive seniority pay of one hundred pounds. These salaries are low compared with the highest administrative officers. An increased stipend might make the service more attractive.

[38] Chief Secretary, *Debates, cited,* p. 118. In the face of this great need, the government assumes a heavy responsibility in excluding medical missionaries from the Moslem areas of northern Nigeria. Cf. Vol. I, p. 737.

[39] Cf. Vol. II, pp. 36, 577.

of population varies from about twelve to one hundred fifty per square mile, and may safely be said to be considerably below that which the soil and resources of the countries can support. The people of the country are naturally fertile but this is widely and seriously impaired by venereal diseases, and to this is attributed the low birth rate which is assumed from experience to be the case. The infant mortality is known to be high, as also the general death rate, and of late years epidemics have swept over large tracts of country causing deaths running into hundreds of thousands in area after area. The health of the people as a whole is a long way below what it should be, and in many areas the bulk of the population is C3, probably due in part to nutritional deficiency.

"These conditions are largely preventable, but in order to bring into operation the modern means for combating disease and improving health, a very large staff of skilled workers is required. It is impossible to meet this need by increasing the European highly skilled staff for they could never be recruited in sufficient numbers nor could governments afford to meet the cost.

"At the same time, it must be recognized that we have among the African people a sufficiently large proportion of intelligent youth, both male and female, capable of absorbing the necessary scientific knowledge and of becoming skilled in its use. The problem, therefore, resolves itself into one of the organisation and development of facilities for training the African youth in the different branches of activity required." [40]

As a result of the recommendations of this conference, an African medical school is now being established at Accra, Gold Coast, which will be supported jointly by the four colonies.[41] In the first few years, this school will devote its energies to the training of medical assistants, but a definite arrangement has been made to train fully qualified African doctors and grant full medical degrees.[42]

In talking to medical officers both in Nigeria and the Gold Coast, one gets the impression that despite the theoretical acceptance of the principle of medical assistants, they believe that an African, before being intrusted with responsibility of a medical kind, should have a thorough scientific education, and in fact should really be an African doctor. They apparently are unwilling to intrust any such work as the giving of intravenous injections to medical dispensers who do not know the chemical composition

[40] *Proceedings of the Third Conference of the Senior Members of the West African Medical Staff*, December, 1925, p. 3.

[41] With the establishment of this medical school in view, the Gold Coast medical officer has made a study of the French medical school for natives at Dakar. Cf. Dr. J. M. O'Brien, *An Account of the School for the Training of Africans in Medicine and Surgery.*

[42] Cf. *Address of the Governor of the Gold Coast. A Review of the Events of 1925-1926 and The Prospects of 1926-1927*, p. 138.

of the drugs involved. In contrast to this highly professional attitude, the medical services in Uganda, French West Africa, and the Belgian Congo intrust natives having only an elementary education with the responsibility for administering to the simple needs of hundreds of their compatriots. Obviously, the high professional standard of British West Africa, to which only a very few natives can attain, means a low social return. To a layman, a dispenser who can save twenty lives while losing but one is of much more value than no dispensers at all. It is to be hoped that the West Africa governments will, under the influence of this social rather than professional point of view, take steps to train a large number of dispensers such as are found elsewhere in Africa and assign a sufficient number of European doctors to inspect their activities.[43]

7. *Compulsory Labor*

Under certain circumstances, the administration of every colony in Africa obliges the natives to work for public purposes. Under the Roads and Rivers Ordinance in Nigeria[44] the Governor could direct that any road or river should be kept clean by native authority, and a native authority could require all able-bodied natives under his jurisdiction to work on such road or river for not more than eight days in any quarter. Moreover, while in practice the government obliged the native authorities to keep up only minor roads, it had the power, under the ordinance, to place the maintenance of the entire road system of Nigeria upon native authority, by means of a system of compulsory and unpaid labor. In the Eastern Provinces, where direct taxation has not yet been imposed, this labor appears to have been used not only for maintenance but also for construction purposes. The government exercised no control to see that the labor burden was evenly distributed.

The administration did not apply the compulsory provisions of this ordinance to the British Cameroons, held under mandate presumably because of the belief that the provisions of the mandate in regard to forced labor would be violated.[45]

[43] The educational and agricultural activities of the government are discussed in Vol. I, p. 728.

[44] Chap. 107, *Laws*, 1923.

[45] Cf. the First Schedule to the British Cameroons Administration, Ordinance, *1926 Supplement to the Laws of Nigeria*, hereafter cited as *1926 Supplement*, p. 106, which says, "Sections 3 to 6 [of this ordinance] shall not apply to the British Cameroons."

Another interesting exemption is Article 4 of the General Minerals Regulations of Nigeria (Chap. 93) providing for an export duty of 50 per cent on tin, unless it is smelted within the British Empire. While the remaining articles of these Regulations are applied to the Cameroons, this article is omitted, presumably on account of the open door provisions in the mandate. A number of other modifications in the Nigerian ordinances are made. See the Schedule cited above.

In 1927, apparently because of the considerations just discussed, it repealed the Roads and Rivers Ordinance altogether. Nigeria is one of the few territories in British Central Africa which does not rely upon unpaid labor for the maintenance of local roads.

Compulsory labor is sometimes still exacted in Nigeria in connection with public works. The obligation to work on the construction of a railway is seldom if ever laid down in an ordinance of the government. From the legal standpoint, a system of voluntary labor prevails. But in practice, the government frequently resorts to so-called "political labor" for construction purposes. When it is unable to secure voluntary labor, the administration estimates the number of men required and then assigns a contingent to each province concerned. Thus in 1925, about 12,500 men were employed in railway construction in the Northern Provinces, 38 per cent of whom were "political" and the remainder voluntary laborers. The 38 per cent was divided between Nassarawa, Bauchi, and Zaria provinces, according to population. The Resident of each province divides up the contingent between the native authorities.

This "political" labor is not popular. Following the protests of the people of Zaria against this burden in connection with the construction of the Eastern Railway, the government decided during 1924-25 to resort only to volunteers. But despite the efforts of recruiters, sufficient volunteers were not forthcoming, and the government was obliged to return to compulsion.

Political labor is usually employed on gang task work set day by day. A political officer attached to construction work sees that the tasks are reasonable and that the labor is otherwise well treated. A gang completes its task in eight hours. The rule is laid down that a gang shall not work after 4 P. M., even if the task is unfinished. About eighty per cent of the laborers finish their tasks each day. The men are paid nine pence a daily task. Payment is always made to the individual, and not to his headman. Laborers coming from long distances are paid four pence per twenty miles for subsistence. It appears that the same working régime applies to voluntary as to "political" labor. But the political laborers are never obliged to work more than a month, when they are sent home. The laborers usually feed themselves, purchasing food from the camp markets. In order to keep prices down, the construction authorities usually furnish free transport for produce. The food is prepared either by wives who accompany the laborers or by local market women.

Under this system, food shortages have occasionally occurred. This was particularly true in Nassarawa province in 1924. There are few if any colonies in Africa outside of Nigeria which oblige railway construction

laborers to buy and cook their own food. It must be admitted, however, that the effect on the death rate has not been markedly noticeable. The mortality rate per thousand from all causes in 1925 was 24 (300 deaths among 12,452 men). This rate was higher than usual because of outbreaks of epidemics of cerebro-spinal meningitis and relapsing fever. This death rate of 24 per thousand compares favorably with the death rate of 80 per thousand in Kenya and in the French Cameroons, but unfavorably with the eight per thousand in the Belgian Congo.[46]

As long as men are obliged to use their nine pence a day in the purchase of food, it would appear that they are underpaid in comparison with natives working on the open market. If this be true, political labor constitutes a type of labor tax—and a tax which does not rest on the authority of law. Even if it is adequately paid, compulsory labor should be imposed only on the basis of a statute. Otherwise the imposition of this obligation on the native community is illegal. Moreover, it is only when the system is openly legalized that the burden can be evenly distributed. At present, the administration has no means of preventing a chief from sending out to work only his enemies. Inasmuch as the obligation to supply this labor ends within a month, these abuses in Nigeria are reduced to a minimum. Nevertheless, the Nigeria system is based on the wrong principle, which other colonies in Africa, justifying themselves by Nigeria's example, have applied to the point of excess.[47]

[46] Cf. Index—death rates.

[47] An official disagrees with the above passage as follows:

"Were the Government to rely solely on such labour as can be recruited individually at current labour rate, it would be impossible to build railways or to undertake any other public work of magnitude. We are endeavouring to secure free labour where possible or voluntary labour recruited by contractors; but in the present state of development of the country the only efficient contractors are the native administrations and chiefs. It is through them that labour is recruited and the difference between them and private contractors is simply that, whereas the private contractor reckons to make a profit on his contract, the native administrations do not expect to receive any consideration from the government for recruiting their peoples for work. Labour is employed at the normal daily wage which applies to voluntary labour in the district in question."

CHAPTER 37

THE COLONY OF LAGOS

EVER since the 16th century, British merchants have traded with the Niger coast. Before 1885, the people to whom they sold their wares were independent of European rule. A number of circumstances led to the gradual termination of their independence, the chief of which was that native authorities proved unable, in the eyes of foreigners, to keep the peace between natives and white men, as the case of Nigeria will show.

1. *King Docemo*

Originally it appears that Lagos was ruled over by some ten White-Cap Chiefs, the sons of a native sovereign called the Alofin. But about 1630, this King was overwhelmed by an army from Benin, as a result of which an emissary from the King of Benin—Asipa—founded a new line of kings, which exists to the present day. By 1850 Lagos had become the center of the slave trade on the West Coast.[1]

At this time a dispute over the throne of Lagos arose; and one claimant told the British, represented by a hovering man of war, that he would promise to put down the slave trade and human sacrifice, in return for their support for the throne. Accepting this offer, the British warship bombarded the town and placed Akitoye on the throne. In return, he made a treaty in 1852 promising to abolish slave-trading, human sacrifice, and the murder of prisoners of war, and to protect missionaries and freedom of trade.[2] A British consul was thereupon established at Lagos. Docemo soon succeeded Akitoye as king; but he apparently proved unable, according to a British consul,[3] to carry out the terms of the treaty. According to the Foreign Secretary, Lord John Russell, Lagos should be annexed since "the permanent occupation of this important point in the Bight of Benin is indispensable to the complete suppression of the Slave Trade in the Bight, whilst it will give aid and support to the development of lawful commerce

[1] J. B. O. Losi, *History of Lagos,* C. M. S. Bookshop, Lagos, 1921.

[2] *British and Foreign State Papers,* Vol. 41, p. 734. Kosoko, the deposed chief, was expelled from Lagos but allowed to reside at Epé. Hertslet, *The Map of Africa by Treaty,* second edition, London, 1896, Vol. I, p. 405.

[3] There was, however, a difference of opinion as to this point. Cf. remarks of Sir Francis Baring, *H. C. Debates,* June 12, 1862, Vol. CLXVIII, 3rd Series, col. 503.

and will check the aggressive spirit of the King of Dahomey, whose barbarous wars, and encouragement of slave-trading, are the chief cause of disorder in that part of Africa."[4] Apparently under pressure, Docemo was obliged to sign a treaty in 1861 ceding the port and islands of Lagos to the Queen of Great Britain. Docemo would still be allowed to use the title of "King" and to decide disputes between the natives of Lagos with their consent, subject to appeal to British courts. In place of his former income, he would receive a pension equivalent to the "net revenue hitherto annually received by him," later fixed at twelve hundred bags of cowry shells a year.

To-day the Colony of Nigeria has an area of 1469 miles and a population of about 225,000. It is divided into three administrative districts, Lagos, Epe-Ikorodu and Badagry, each in charge of a district officer, with a Resident at Lagos who supervises the colony as a whole. The colony is under the jurisdiction of the Supreme Court. Neither the Native Authority nor the Native Courts Ordinance applies.

2. *Lagos Town Council*

Lagos itself, having a native population of about one hundred thousand people, is the only first-class township in Nigeria. Its administration is extremely important, not only because of the size of its population, but because it is the leading port and commercial center of the whole territory of Nigeria. It is, therefore, really more of a European than a native center. Nevertheless, the city of Lagos is the home of thousands of natives who have received a form of European education, who are now completely divorced from their tribes, speaking for the most part English, and who are employed as clerks or engaged in the practice of law or medicine, or, in a very limited number of cases, as independent merchants. In order to satisfy the demand of this class for some share in the administration, the government has established a partly elective Town Council. While this Council has an official majority, it also has three African members elected for three years. A voter must occupy a house having an annual rental value of fifteen pounds, as determined by assessment officers.[5] Every ratepayer is automatically enrolled on the election list. In the first election for the council, held in May, 1920, only fifteen per cent of the electorate voted. In the election of June, 1923, the proportion was 11.71 per cent. The total number of voters enrolled in 1923-24 was 2,231. The proportion of non-voters is especially great because of automatic registration.

The Town Council levies, with the approval of the government, an "improvement rate" on houses benefiting from light, roads, or drainage fixed

[4] Hertslet, *cited*, p. 407. [5] Lagos Township Ordinances, Ch. p. 59, *Laws*.

at five per cent of the annual value, and also a general water rate. There are, however, no general taxes collected from any of the inhabitants of the colony. When the Governor attempted, in 1895, to levy a house and land tax on the island of Lagos, about 5,000 citizens went up to Government House and protested so strongly that the tax was never enforced. Even greater resistance was made in 1915 to the imposition of a water rate in Lagos, to help pay for the cost of installing a sanitary water supply. A mass meeting was held, attended by several thousand people, at which the chiefs again protested against this rate, one of them saying, "Since the Assessment Committee distributed the Blue Notices, we have all become dead men. When His Excellency, Sir Walter Egerton, started the work, the people including the chiefs went to him and said they did not want water. We are saying the same thing to-day and that is we do not want your water. We would rather die than admit taxation among us. Taxation is against our national tradition." In reply, the Administration said, "The Government is the father and the people the children. The father has seen that the water his children are drinking is not good." [6] The courts proceeded to enforce the collection of the rate—which is five per cent of the annual value of houses within the township—which the Lagotian population, after a riot in Tinubu Square, finally agreed to pay.

The administration of the city is really in the hands of a European Town Clerk together with a Town Engineer and Officer of Health, appointed by the Governor. In fact, all the administrative activities as well as the judicial work are in the hands of Europeans. The central government retains control of the electric light plant and police. In an effort to clean up the "tenement" districts of Lagos, which have been plague centers, the Town Council is now building a model native village at Yaba, a suburb.

3. *The Eleko Question*

Despite the annexation of Lagos in 1861, the position of Eleko or king of Lagos still remains. But in recognizing a new Eleko in 1901 the Governor said, "I have made it abundantly plain that the successor to Oyekan is only head of the Family; that he has no ruling function; and that he has with regard to the Government no official position beyond that of chief of the Docemo-Oyekan house"—an attitude which is still maintained.[7]

[6] *Report of the Proceedings at an Interview on the Water Rate Question,* May 6, 1916. This meeting was attended by about 15,000 people. Cf. also Despatch of the Secretary of State, *Nigeria Gazette,* 1915, p. 500. Hereafter cited as *Gazette.*

[7] Cf. *Gazette, Extraordinary,* December 8, 1920. While the Treaty of 1861 granted Docemo the title of King and recognized a certain judicial power, it appears that these privileges were personal to Docemo, and did not apply to his successors.

Notwithstanding this position, the government has imposed obligations on the "King" of a semi-political nature. During the Water Rate agitation in 1915, the government asked the Eleko to cause his bell to be rung throughout the town asking the people to pay the Rate. Upon the Eleko's refusal, the government was indignant. In 1904, the administration established a Native Central Council, composed of the Eleko, the White Cap Chiefs and other nominated members. This body held regular sessions at which it discussed with the government important native questions. Since 1912 it has met only irregularly.

The Eleko has also been allowed to appoint the different chiefs and headmen of native quarters, subject to the approval of the British authorities. But when the Eleko appointed, in 1919, some Mohammedan headmen without notifying the acting Governor, the latter official, upon the advice of thirteen Africans, suspended the Eleko from office. Following a meeting of the natives of Lagos, who said the Governor had been misinformed, the administration reinstated the Eleko on condition that the appointments be cancelled.[8]

In addition to the Eleko, the White Cap Chiefs—the descendants of the kings who ruled Lagos before the establishment of the Docemo rule—still hold minor positions. The forty-nine White Cap Chiefs are divided into four classes each of which bears a different title.[9]

Frequent controversies over the title and precedence of these chiefs have arisen.[10] They have no administrative power, however, and they receive no stipend.

Following the World War, one of the White Cap Chiefs of Lagos, Olowa, went to England in connection with the Apapa land case [10a] accompanied by a well-known African, Mr. Herbert Macaulay. Unknown to the British authorities, the Eleko—who remained in Lagos—entrusted

[8] *Nigerian Council, Address by the Governor,* 1920, Appendix II.

[9] In the first class there are twelve titles, including the Eleko; apparently the chiefs in this category came to Lagos with the original House of Docemo. The second class, or Ideyo, have eleven titles; they were, it appears, the original land owners of Lagos. The third class, having five titles, are the religious heads—the Ifa Priests; the fourth class, having seventeen titles, are the War Chiefs; and the fifth class, having four titles, are the "King Makers."

[10] In 1919, the Lieutenant-Governor of Southern Nigeria held a meeting with the Eleko and White Cap Chiefs, in which he insisted that then and there the Eleko should tell him the precedence of these Chiefs. When the Eleko said he didn't know, the Lieutenant-Governor said, "It is absolutely absurd that the Eleko should sit there and tell me that you do not know the order of precedence of your Chiefs and expect me to believe it." At this remark, the Eleko finally drew up an order of precedence, which, however, the other chiefs disputed. The Eleko said the matter was intricate and some places were in dispute. But the Governor wanted "to know tonight." While he later relented, the incident is a good example of administrative impatience.

[10a] Cf. Vol. I, p. 755.

his Staff of Office[11] to Mr. Macaulay, which, in the eyes of the natives, made him the accredited spokesman of the chief. During their sojourn in England, it was reported in Nigeria that "Chief Olowa and Mr. H. Macaulay, who had accompanied him to England, had been giving out 'irresponsible vapourings' claiming 'that the Eleko was acclaimed by all Nigeria' and by 16,000,000 Africans as their King and that the revenue of this Dependency—placed by him at 5,000,000 pounds sterling—is rightly regarded, the personal income of the Eleko."[12] This statement was made by the Governor upon the basis of an interview given by Mr. Macaulay to the *London Daily Mail*. As reported in this article, however,[13] Mr. Macaulay did not call the Eleko king of Nigeria but merely the king of Lagos, acclaimed as such by the seventeen million people of Nigeria—quite a different thing. Nevertheless, the Nigerian Government persisted in its accusation, and asked the Eleko publicly to repudiate all such claims and advised him to telegraph for the return of the Staff. After stating that Mr. Macaulay had acted without authority, the Eleko asked what other form his repudiation should take. In reply, the government said that a Bellman should be sent through the town repeating a statement, part of which said that "these words were lies." When the Eleko asked that action be postponed until the return of Chief Olowa, the government published a notice "ceasing to recognize" Eshugbayi as head of the House of Docemo or as holding any position which might entitle him to official recognition.[14]

Despite a petition signed by 17,000 natives in November, 1922,[15] the government declined to restore its recognition to the ex-Eleko, who thereafter received neither stipend nor invitations to government social functions.

It soon became evident that despite this boycott, the Eleko had a social position and influence in Lagos that could not be ignored. Without his aid, the capping of the White Cap Chiefs and the holding of the Adamu 'orisha funeral ceremonies and other customs could not be carried out. Consequently, the government decided that some one should be recognized as Eleko. The Docemo family thereupon proceeded to depose Eshugbayi—the Eleko who had met with government disfavor—a deposition "sanctioned" by the British authorities who now deported Eshugbayi,[16] after

[11] A symbol of authority granted Nigerian chiefs by the government.

[12] *Nigerian Council, Address by the Governor,* 1920, p. 48.

[13] July 8, 1920. Cf. also the Humble Petition of Prince Eleko to the King, asking for reinstatement.

[14] *Gazette, Extraordinary,* Dec. 8, 1920.

[15] The text of the petition was printed in the *Lagos Weekly Record,* January 20, 1923. The Governor called this "an utterly worthless document." *Nigerian Council, Address by the Governor,* 193, p. 32.

[16] It exercised this authority under the Deposed Chiefs Removal Ordinance, Chap. 78, *Laws*.

"satisfying" itself that the family had acted in accordance with native custom. Shortly afterward, the Gazette published another notice stating that the majority of the family had elected a successor, whose appointment the government sanctioned.[17] It proposed to pay him a stipend of 300 pounds on the understanding that "your position as Eleko does not invest you with any ruling function or jurisdiction over any of the inhabitants of Lagos. . . ." In view of the suspicious circumstances under which the former Eleko was deposed and the new one elected, it is not surprising that part of the House of Docemo refused to recognize the successor. With one exception, all of the White Cap Chiefs absented themselves from the ceremonial leave-taking of Governor Clifford in 1925; and when the new Eleko went to greet the new governor, Sir Graeme Thomson, at the boat, the Eleko was hissed and booed. The Nigerian Democratic party in the meantime had asked the Supreme Court—but without success—to set aside the order deporting the former Eleko; while a native circulated a bogus telegram, purporting to have come from the Secretary of State, to the effect that the appointment of the new Eleko had not been approved, which caused great excitement. For this offense, the native concerned was given nine months in jail. During two months, the African editor of the *Lagos Record* kept him company, because he intimated that the judges in the case had been dominated by the executive.[18]

This controversy over the Eleko is related to internal divisions in the native population of which 50,000 are Moslems and 30,000 Protestants.[19]

Curiously enough, more antagonism has existed between different Moslem sects than between Moslems and Christians. In 1914, differences arose over the appointment of the officers in the principal Mosque. The head Lemomu, who came from the north, had stricter ideas than the Yoruba Moslems. He also opposed the resistance of the people to the water rate in 1916. Consequently a Jamat sect, which soon included a majority of the Moslems, started a movement to depose him. The Eleko, who was not a Moslem, was persuaded to appoint as officials certain Moslems from the Jamat sect to positions already held by the followers of the

[17] *Gazette,* 1925, pp. 369, 473. About twenty questions were asked the government in regard to the Eleko affair in the session of the Legislative Council in October, 1925. Cf. *Legislative Council Debates,* 3rd Session, 1925, pp. 11 ff.

[18] His offense was contempt. Rex. vs. Jackson, *Nigerian Law Journal,* November, 1925, p. 107.

[19] Of the 100,000 people of Lagos, 50,579 are Mohammedans, 31,124 are Protestants, and 8,092 are Roman Catholics, while 9,895 are pagans. Census, 1921. P. A. Talbot, *The Peoples of Southern Nigeria,* Vol. IV, p. 105.

While the majority of the hundred thousand natives of Lagos belong to the Yoruba race, they contain, nevertheless, a number of extraneous elements, one of the most important being the "Brazilians"—the descendants of slaves repatriated from Brazil where they had been carried by the Portuguese in the 17th century. Many of these "Brazilians" are now prominent traders and professional men.

Lemomu—which led to the temporary suspension of the Eleko in 1919.[20] Upon the death of the Lemomu, the Jamat party brought an action in the Supreme Court for the control of the Central Mosque, which the Court awarded to them. The minority or "legitimist" party thereupon set up a Lemomu and mosque of their own. Disputes also arose over separate praying grounds and regalia, during the Ramadan festivals. It is believed that African barristers stimulated these differences out of which, according to some estimates, they made about 5,000 pounds in fees. In return for past support, the Jamat—or majority—Moslems now support the deposed Eleko, while the minority Moslems support the new appointee. The situation is therefore still tense; and the government is in an unpopular position since it based its reason for deposing the Eleko on an inaccurate statement of the claims of a spokesman whom the Eleko had not recognized.

Another cause of difference of opinion between the "King" of Lagos and the British Government has been his annual stipend, which has varied between 200 and 400 pounds a year. The last Eleko was paid only 300 pounds. In 1913, a native deputation, in asking for an increase, told the government that the King could not possibly support his family and maintain an establishment on such a sum.[21] Consequently, he was obliged to resort to "dashes" which some people regarded as bribes. These requests for an increased stipend were repeated following the World War; but so far the government has declined to grant them, partly because of the political situation in which the Eleko is involved.

It is somewhat astonishing to find that while the most highly developed native governments in Africa are found in Nigeria, the administration of the colony should thus ignore native institutions. In Lagos, the government has learned, however, that these institutions cannot be altogether abolished because they play an important part in the life of the people. As long as the Eleko and the White Cap Chiefs are allowed to exist without power or responsibility, and without any financial means to maintain their social position, they will probably remain objects of intrigue. Certainly some steps could be taken to give them something to do. The

[20] Cf. Vol. I, p. 662.

[21] These and other documents are printed in H. Macaulay, *Justitia Fiat,* The Moral Obligation of the British Government to the House of King Docemo of Lagos, 1921. This brochure argues that the British government has violated the treaty of 1861 under which it agreed to pay King Docemo a pension equal to the net revenue hitherto received by him, which, it asserts, amounted to 2,000 pounds. But in "violation" of this agreement, the government paid Docemo only a thousand pounds, and his successors much less. This position appears, however, to be unsound, since by an additional article, the two parties agreed that the pension should be 1200 bags of cowry shells. Likewise, the pension was personal to Docemo; *i.e.* the treaty does not bind the government to pay a pension to his successors.

cities of Accra, Freetown, and Dakar are all [22] doing much more in giving the natives a share in municipal government than Lagos. While so far these experiments have not proved a success, they do justify the belief that some form of native tribunals and police could be satisfactorily established in the native areas of Lagos. Outside the township, the task is comparatively simple. Tribes still exist; and in the Lagos District there are sixteen Bales and assistant Bales who receive from eight to twenty-four pounds a year from the government. At Epe and at Badagry, unofficial "Councils of chiefs" already act as advisory bodies. The establishment of native courts and treasuries in these areas would not apparently meet with greater difficulties than in the protectorate of southern Nigeria—and it is a measure which the natives would presumably welcome. It is understood that in 1927 the government introduced legislation establishing native courts and imposing direct taxes in the colony.

[22] Cf. Vol. I, pp. 833, 882, Vol. II, pp. 958-963.

CHAPTER 38

THE PROTECTORATE OF SOUTHERN NIGERIA

1. *The Yorubas*

SOUTHERN Nigeria, excluding the Colony, is divided into the Western Provinces which lie on the right bank of the Niger as it winds its way to the sea, and the Eastern Provinces, lying between the Niger and the Cameroons. The leading people in the Western Provinces are the Yorubas, and in the Eastern Provinces, the Ibos. At present, the Yoruba people are divided into a number of independent states all of which were at one time part of the Yoruba Kingdom founded at the city of Ife which lay between the Kingdom of Dahomey on the west and the Kingdom of Benin on the south.[1] The Alafin of Oyo in early times came to be regarded as the head of all the Yorubas, except the Egbas who recognized only their king, the Alake. Another native state, Ibadan, obtained its independence from the Alafin in 1862, following a war over the succession to the Alafin's throne. Nevertheless, the Bale of Ibadan still recognizes the suzerainty of the Alafin.

Inhabiting large cities, the Yoruba people have an amazingly complex form of social existence. They believe in Olorun, the Lord of Heaven, in future rewards and punishments, and in the transmigration of souls.[1] Likewise, they worship minor dieties and fetishes. The Alafin, the lineal descendant of the founder of the nation, is usually elected by a body of nobility, called the Oyo Mesi, or councillors of state. Native law obliged the eldest son—called the Aremo—to commit suicide upon the death of his father in order to remove from the son the temptation of regicide.[2] At the present time, the Oyo Mesi may choose a king from any member of royal family. The Coronation ceremonies are lengthy and elaborate, and before the coming of the British they were accompanied by human sacrifice. Once the king is crowned, he is forbidden to appear in public

[1] According to tradition, the Yoruba kingdom at one time extended as far as Accra on the Gold Coast; until comparatively recent times the Popos and Dahomians paid regular tribute to the Yoruba king. At one period the Kingdom is said to have had 1060 vassals or provincial kings dependent upon it. Samuel Johnson, *The History of the Yorubas,* London, 1921, pp. 15, 41. Rev. Johnson is an African historian.

[2] The rule was repealed in 1858. *Ibid.,* Chaps. III and IV.

by day except on extraordinary occasions; but he may stroll about at night incognito. At festivals, the king appears in state, seated upon a throne covered over with velvet, and wearing a crown of costly beads and robes of silk or velvet. The Alafin is surrounded by a large number of various palace officials, including a body guard, Ladies of the Palace, and a bevy of wives. The King's Council is headed by a Prime Minister, called the Bashorun. The Crown Prince (the Aremo) is mayor of Oyo; while outlying districts are governed by district heads or Bales, each having a distinctive name. Within each district are found a number of village heads. Originally, the government was financed by a system of tribute and tolls levied on commerce.[3]

In some ways, the organization of the native state of Ibadan is similar. The Bale, however, recognizes allegiance and pays from the native treasury a tribute now fixed at 2,400 pounds to the Alafin at Oyo; and his powers are controlled somewhat rigorously by an influential Council of sixteen members—the "Right Hand and Left Hand" Bales, the "Right Hand and Left Hand" Baloguns or war chiefs, and others. Under the Chief Bale are district and ward heads, together with a series of native courts.

Originally, the Egba kingdom at Abeokuta—lying between Ibadan and Lagos—was composed of four provinces, each having a king. Powerful societies or guilds, such as the Ogboni Society, composed of statesmen, the Olorogun Society, composed of war chiefs, the Parakoyi, or Chamber of Commerce, and the Ode, composed of hunters, controlled the king in many actions. Some of these organizations, especially the Ogboni Society, are powerful to-day.[4] Following wars in the early 19th century, the native government of the Egba people was centralized under the Alake at Abeokuta, becoming known as the Egba United Government.

Before the coming of the Europeans, these three states of Oyo, Ibadan, and Abeokuta warred against each other; while constant fighting with other states, such as Ilorin, Dahomey, and Benin, took place. After the advent of European traders, the combatants procured disastrous weapons in the form of guns and powder which they purchased with slaves taken as prisoners of war. Europeans wishing to do a legitimate trade with the interior were obliged to pay excessive tolls. In an attempt to end these conditions, a British naval officer in 1852 signed a treaty with the Abeokuta chiefs in which they promised to stop the slave trade and human sacrifice, open the country for commerce, and protect missionaries.[5] But this treaty failed

[3] Cf. A. K. Ajisafe, *The Laws and Customs of the Yoruba People,* London, 1924, Chap. IX. He is also an African writer. Cf. also Talbot, *cited,* Vol. III, pp. 566 ff.

[4] Cf. A. K. Ajisafe, *History of Abeokuta,* Suffolk, 1924, Chap. 8.

[5] Talbot, *cited,* Vol. I, p. 34.

in its object, and local wars continued.[6] The British soon learned that their sympathetic aid given to the Egba people in resisting the attacks of Dahomey had been misplaced, inasmuch as these attacks had really been provoked by the treatment which the Egbas accorded to the Dahomey villages along the frontier. Ungrateful for British assistance, the Parakoyi, or chamber of commerce of Egba, which formerly had a monopoly of trade with Lagos, vented their feeling toward the European traders who now competed with them by plundering their property. This growing unfriendliness led the British government for a time to forbid trade between Abeokuta and Lagos, in 1863. Four years later, all Europeans, whether missionaries or traders, were expelled from Abeokuta, partly at the instigation of disaffected natives from Sierra Leone. Meanwhile, invasions from Dahomey periodically continued, and in 1877 war broke out between Ibadan and Abeokuta, accompanied by several epidemics of smallpox.[7]

2. *The Agreements of 1893 and 1904*

Governor Carter of Lagos finally brought an end to these difficulties in 1893 by negotiating treaties with Oyo, Ibadan, and Abeokuta, providing for freedom of trade, the protection of missionaries, the abolition of human sacrifice, and the non-cession of territory without British consent. The Alafin of Oyo promised not to make any treaties with other governments without the consent of the British, and to refer disputes to two arbitrators, one chosen by the governor of Lagos and the other by the Alafin. The agreement with the Ibadan Bale and Council included the same terms. The Bale also agreed to provide land for the construction of a railway. In 1899 and 1900, Railway Agreements were entered into with Ibadan and with Abeokuta, the capital of Egbaland, in which these native governments respectively agreed to lease land for 99 years at a distance of one hundred yards on both sides of the proposed railway, within which area British courts should have jurisdiction over offences against British subjects.[8] The British government agreed to pay to Ibadan the sum of

[6] J. B. O. Losi, *History of Abeokuta,* Lagos, 1923, p. 20. In 1850, the people of Dahomey attacked the people of Abeokuta, but were repulsed with heavy losses. Partly on account of this attack, the Egba chiefs applied to the British for a treaty to open up the road to Lagos, in return for which they promised to stop the slave trade. Meanwhile, a British Consul and missionaries had taken up their residence at Abeokuta and showed the natives how to protect themselves with modern guns. Talbot, *cited,* Vol. I, p. 133 ff.

[7] Between 1884 and 1894, the Ijebu people, located between Abeokuta and Lagos, also obstructed commerce and stole the property of traders. After submitting to repeated affronts the British authorities finally subjugated the Ijebus, in 1892.

[8] The Egbas at first objected to the passage of the railway through Abeokuta. Consequently, the line was laid several miles west of the town. The Egbas later

twenty pounds and to the Egba nation the sum of 200 pounds annually. In view of the services which the natives obtain from the Nigerian railway, the native governments later agreed to forego this annual rent.[9]

Unlike the Oyo and Ibadan agreements of 1893, the agreement with the Egba government provided that "so long as the provisions of this Treaty are strictly kept, no annexation of any part of the Egba country shall be made by Her Majesty's Government without the consent of the lawful Authorities of the country, no aggressive action shall be taken against the said country, and its independence shall be fully recognized." The obligations of the Egbas to protect trade and suppress human sacrifice did not arise out of the treaty, but merely out of a declaration.[10] In early years, these states had agreed to the presence of British Residents, who exercised what amounted to consular powers.

Following the construction of the railway, large numbers of British traders came into these native cities, and, in theory, outside of the railway zone, became subject to native courts and authority. But so many complications arose between the traders and the chiefs that in 1904, Ibadan, Ife, and Oyo agreed to sign Judicial Agreements in which British courts were authorized to hear all cases between non-natives and natives and all offenses of non-natives. In 1908, a similar agreement was made with Jebu Ode.[11] In 1904, the British also made a Judicial Agreement with the Egba government, which had, however, more restricted terms. The life of the agreement was limited to twenty years, during which period the Alake ceded jurisdiction in his territory to the British government in cases involving non-natives charged with indictable crime and where the subject-matter of a civil dispute exceeded fifty pounds. Furthermore, non-indictable offenses committed by non-natives would be heard by a Mixed Court, composed of the president, appointed by the British government, and two members named by the Egba Council, acting by majority. This

recanted, however, and today a branch line conveys passengers into the city from the junction.

[9] The text of the 1893 and the Railway Agreements are printed in Johnson, *cited,* Appendix A, pp. 658 ff. At the suggestion of the British government, the Ijesa, Ekiti, and Ife nations passed enactments abolishing human sacrifice in 1886.

[10] "The said King and Authorities having promised that the practice of offering human sacrifices shall be abolished in the one township where it at present exists, and having explained that British subjects have already freedom to occupy land, build houses, and carry on trade and manufacture in any part of the Egba country, and likewise that there is no possibility of a cession of any portion of the Egba country to a foreign Power without the consent of Her Majesty's Government, it is desired that no special provision be made in regard to these subjects in this Treaty."

[11] The texts of these agreements are printed in the Schedule to the Egba Jurisdiction Ordinance and to the Ibadan-Oyo and Ife Jurisdiction Ordinances, etc., *Laws of the Colony of Southern Nigeria,* 1908, Vol. I, pp. 256 ff. Cf. also the Jebu Ode Jurisdiction Ordinance, No. 22 of 1909.

court would also hear civil disputes between natives and non-natives involving sums of less than fifty pounds, subject to an appeal to the British court when the value of the subject under dispute was above five pounds.[12] The British government also secured jurisdiction over all persons whatsoever charged with the crime of murder or manslaughter. Thus this agreement gave the British authorities jurisdiction over the more serious cases involving non-natives. But it did not take away the jurisdiction of native courts over natives except in murder cases.

In the greater part of the western provinces of Nigeria, British policy before the War was to control native states on this treaty basis. The government did not collect taxes nor apply legislation to these treaty states. Thus the Native Courts Ordinance, passed in 1906, did not apply to the western provinces.[13] The government simply exercised judicial power over Europeans and, through the Residents, assisted the native kings in keeping peace.

3. *Egba Independence*

Despite the guarantee of independence given the Egba government in the agreement of 1893, the British representatives at Abeokuta exercised considerable influence over the native authorities. Upon their advice, a National Council of chiefs and other representatives was established in 1898. At this time, the main source of revenue consisted of tolls collected on Lagos trade. When the Lagos government proposed that these tolls should be commuted in favor of a fixed sum, the Egba people not only refused to accept the proposal but boycotted the merchants who had favored it. The Secretary of State for the Colonies, Mr. Chamberlain, decided in favor of the Egbas, and the tolls were collected until after the annexation of Egbaland in 1914.

Under the influence of natives educated in European schools, the Egba government now remodelled itself on European lines. An Inhabitants' Protection Association brought about some improvements in the administration of justice in 1903; and in the next year, the Egba Government started the publication of a *Gazette,* modelled after the *Gazette* published at Lagos. In the same year, a police force was organized and a government secretariat erected. The King even had a "Colonial Chaplain." Minute papers, circulars, voucher forms, and other documents copied from British procedure were introduced.[14] The Alake's Council passed laws in the form of

[12] For the provision in regard to lawyers, cf. Vol. I, p. 651.

[13] Cf. Native Courts Ordinance, Chap. 123, 1906, *Laws of the Colony of Southern Nigeria.*

[14] For example, the Gazette of 1911 contains "leaves of absences," appointment and dismissal of officials, and vaccination, treasury and customs returns. *Egba Government Gazette,* No. 1, 1911, printed in Yoruba and English.

British Orders in Council.[15] Natives were appointed to the positions of Surveyor, Health Officer, and Auditor.[16] African engineers and surveyors undertook the construction of roads and public works. Finding that Africans did not possess sufficient training for some of these positions, the government appointed a European as head of the Police and Inspector of Prisons who also acted as Crown Prosecutor in the Native Courts; and another as Road Engineer. Meanwhile, a Financial Advisory Board was established.

With this aid, the Egba Government installed a good system of roads, a remarkable water works, and an electric lighting plant.

This was not so much a native government, as existed at Oyo or in the northern Emirates, as a government in which semi-educated Africans tried their best to follow European methods. It was a government in which the native intellectuals, led by the chief secretary, named Edun, came to dominate the Alafin and the traditional framework of native authority.

Difficulties now arose, particularly in regard to finances and the administration of justice. In order to remedy these difficulties, the Lagos government, in 1907, offered to pay the Alake an annual sum of 300 pounds and to spend 2,000 pounds on the Egba roads if it could appoint a European to be president of the Egba court, if the British Commissioner could sit on the Egba Council, and if a British auditor could go over the Egba accounts. While these proposals were at first indignantly refused, the Egba government finally agreed to employ a British auditor, but on condition that he should be paid only from the Egba treasury! In order to obtain money for the construction of a water works system and of roads, the Alake also made a Financial Agreement with the Lagos Government in 1910 providing for a loan of 30,000 pounds at one per cent. To provide a secure revenue to meet the service of this loan, the Egba Government increased the duty on spirits a penny a gallon. Two-thirds of this additional duty was placed in a separate loan account in the Bank of

[15] For example, in 1911, Orders in Council were passed licensing public letter writers who are educated or semi-educated natives scattered throughout the West Coast who write letters for illiterate natives. While these public letter writers are supposed to be merely translators, they really advise natives, in return for (fat) fees, what action to take in complaints against Europeans. In this respect, they have in some places supplanted the lawyer. In an effort to control the abuses of these letter writers, the Nigerian Government has enacted an ordinance called the Illiterates Protection Ordinance (Chap. 81) providing that letter writers should write their own names and addresses on the letters written for someone else, and the amount of the fee, if any, should be attached, and a receipt given. The rate for letter writers is also fixed—at 2s 6d for every letter of a hundred words or part thereof, and 1s for the first extra copy, 3d for the second and subsequent copies.

Likewise, an Order in Council imposed a wheel tax, bicycle and motor licenses, and fixed duties on spirits, light drinks, gun powder, kerosene oil, and tobacco.

[16] Ajisafe, *History of Abeokuta, cited,* pp. 170 ff.

British West Africa at Lagos, and the remaining third went to the Egba government. The loan was expended under the control of a Financial Committee of the Egba government on which the British representative had a seat. Accounts were subject to British audit.

Partly because of a growing antagonism between the old-school natives and the new intellectuals in control of the government, the Egba government also had difficulty in maintaining order. To put down opposition, the native authorities in 1909 passed a drastic ordinance for the suppression of sedition, following which serious disturbances took place, directed against the Alake and his secretary, Edun. To protect themselves, these officials negotiated an agreement ceding to the British Government jurisdiction over the punishment of sedition.[17]

Despite this increased control, conditions did not improve. The situation was defined by Sir Frederick Lugard as follows:

"The Egba Government was conducted in the name of the Alakie—a loyal and well-disposed but wholly illiterate Chief—by an able and educated native. It was a hybrid, with an exterior pleasing to those who reckon progress among natives to consist in imitating European methods. Side by side with a Secretariat, and minute papers which only the Secretary and a few clerks could read, with Estimates prepared on the Colonial Model, and Orders in Council and Regulations passed by an illiterate body of conservative Chiefs, practically all of whom were very old men who looked on these proceedings probably with amused indifference, there existed the ancient régime with all its abuses—extortionate demands from the peasantry, corruption and bribery in the Courts, arbitrary imprisonment and forced labour. By such methods, a large number of Chiefs of various grades—there were over 2,000 in Abeokuta, I believe—lived a life of idleness and sensuous indulgence. Their power received the sanction of their Government, which was recognized by the Suzerain Power on the one hand, and was rooted in the Fetish observances of the Ogboni Society and native superstition on the other. In virtue of the former, prisoners condemned by Courts, over which the Government exercised no control, were confined in prisons not subject to the Colonial prison laws. . . . If the people rebelled, Government troops were requisitioned in the name of the Alakie. In virtue of the latter, the ignorant peasantry were terrorized into acceptance of the demands of the Chiefs. . . ." [18]

Because of the conventional basis of its authority, the British government had no power to put down abuses. Moreover, conflicts in jurisdiction on other matters frequently arose.

Affairs reached a crisis in the so-called Ijemo incident in 1914. For

[17] Cf. Appendix E, *ibid.*

[18] Cmd. 468, *cited,* para. 19.

some time, the Egbas and the Ijebus had quarreled over a boundary line. To stop this trouble, the British Commissioner, accompanied by Egba officials, visited the spot of the quarrel—Ijemo. The local chief, who had the reputation of being a Juju man or witch-doctor, told the Commissioner that he, the Commissioner, had no authority over him since he was a subject only of the Alake. The Commissioner thereupon ordered the chief's arrest. In the scuffle which followed, the chief received such rough treatment that he later died. The Ijemo people refused to accept his corpse on the ground that death was due to foul play. They demanded the dismissal of Edun, the secretary of the Egba government, who had many enemies, and whom they blamed for the trouble. The demand for Edun's dismissal grew until a general meeting of chiefs at Abeokuta told Edun that if he did not resign in five days, they would forcibly eject him. In the midst of this trouble, British troops arrived from Lagos, apparently requisitioned by the Alake. The British officer commanding these troops called the natives together in a "palaver meeting" to talk over the difficulties. But instead, the troops, apparently without provocation, opened fire on the crowd and killed a large number of women and children. The British government appointed a Commission of Inquiry to determine the facts concerning the Ijemo trouble; but so far it has declined to publish the findings. It seems clear, therefore, that the "massacre" was due to an irresponsible and hot-headed officer.

This incident, coming at the end of a series of difficulties, led the British authorities to believe that for the sake of the natives as well as the Europeans, the independence of Egbaland should be brought to an end. On September 16, 1914, a new agreement was made the preamble of which said: ". . . Whereas the King (Alake) and Authorities of Abeokuta desire the assistance of the government of the Colony and Protectorate of Nigeria to maintain Law and Order" the treaty of 1893 should be annulled in favor of a new Agreement "placing the Egba Kingdom unreservedly under the Government of the Protectorate of Nigeria." [19] The new Agreement not only annulled the treaty of 1893 but also the Judicial Agreement of 1904. The whole of the Egba kingdom thereupon came under the courts and laws of the British government. No legislative measure could be enacted in the future by the Alake and his Council without the express sanction of the Governor, who, however, continued to recognize the Alake as the head of the Egba people. The treaty terminating the independence of Egbaland was received with resentment by some of the natives, one of whom wrote, "The Country's independence has

[19] Text in Appendix G, Ijisafe, *History of Abeokuta, cited.*

been lost by an ignominious treaty coercively entered into with the British Government." [20] The steps by which the "autonomy" of the Egba government has been restored will be discussed later.

With the amalgamation of northern and southern Nigeria in 1914, the British government terminated the judicial agreements not only with Egbaland but also with Yorubaland, the province of Ife, and the territories of the Awujale of Jebu Ode,[21] and also extended to these territories the native and provincial courts ordinances.

4. *The Kingdom of Benin*

In the eastern provinces of southern Nigeria, another great native state, the kingdom of Benin, existed between the middle of the 14th century and 1897. At one time, it extended as far as Lagos in one direction and Bonni in the other. Following the arrival of Europeans, the kingdom of Benin, because of the practice of human sacrifice, became known as the City of Blood.[22] In 1892, the British concluded a treaty with the king at Benin City in which the latter granted facilities of trade, but the king did not live up to the terms of the treaty, and, in 1897, some of his soldiers ambushed and killed a party of Europeans.[23] As a result of this action, the British, after a severe struggle, subjugated the city. After exiling King Overami and executing a number of chiefs, the British soon established a direct administration. Further investigation showed the cruelties of the Benin kingdom were not as great as originally pictured.[24] In an effort doubtless to overcome past misconceptions of native practices, the British government reestablished the kingdom and restored the Oba of Benin to power in 1915. At the same time, the system of native treasuries, found elsewhere in Nigeria, was introduced. It appears, however, that this system was introduced without sufficiently studying the old system of native government, so that instead of reviving

[20] A. Folarin, *The Demise of the Independence of Egbaland,* Part II, Lagos, 1919, p. 24.

[21] This was done by the Jurisdiction of the Courts Extension Ordinance, 1915 (Chap. 6, *Laws*) which repealed the Jurisdiction Ordinances of 1904 and 1908 applying to these territories.

[22] Cf. R. H. Bacon, *Benin, The City of Blood,* New York, Ch. VII.

[23] *Papers relating to the Massacre of British officials near Benin,* C. 8677 (1897).

[24] An official historian says, "All the human victims were said to consist of murderers, wizards, and witches, and anybody else condemned to death for serious crimes—and, occasionally . . . of severely wounded prisoners captured in war. No innocent slave, and no native Bini, who bore the Iwu marks—except a murderer —was ever offered up in sacrifice. . . . The idea of the Benin rule, therefore, as one of bloodstained despotism appears at variance with the truth, and in fact the Bini customs were mild in comparison with those prevailing in much of the rest of the country." Talbot, *cited,* Vol. III, p. 861.

an indigenous growth rooted to the past, the government at first proved an exotic plant.[25] An attempt was made to correct these errors, and it is understood that native administration in Benin now commands greater respect. The Oba rules his kingdom, assisted by a Council of nine chiefs. He is paid a salary of 1,500 pounds a year, while the total revenue of the Benin native treasury in 1926-1927 amounted to 14,392 pounds.

5. *The Eastern Provinces*

Elsewhere in the eastern provinces, particularly among the Ibo people, there are no Paramount Chiefs, the only form of organization being the clan. For a while, the Ibos were dominated by a sub-tribe, called the Aro people, organized into nineteen towns, each ruled over by an hereditary President and a council of eight members, whose consent was necessary for any important action. A priesthood, having nine head priests, also had a powerful influence. The Aros at one time established a powerful fetish over this part of the country, called the Long Juju, which terrorized the natives. The British finally suppressed these practices by military operations in 1899.

A curious form of organization called "House Rule" also existed along the mouths of the Niger in the first part of the twentieth century. The chiefs in this area originally excluded European merchants from the interior, and thus became wealthy as middlemen. They organized great commercial houses, upon a feudal basis. The practice was to advance goods to members of the "House" who would carry them up the creeks in canoes to the interior tribes and bring back native produce. The members of these Houses were usually slaves. In 1901, the government of Southern Nigeria passed a Native House Rule Ordinance[26] which made any member who refused or neglected to submit to the authority of the head of the House liable to a year's imprisonment or a fine of fifty pounds. No further evidence than the oath of the head of the House was sufficient for arrest. Any person, including a European, who employed a member without the consent of the Head of the House was liable to a year's imprisonment and a fine of twenty pounds. This law, originally enacted to maintain intact a valuable trading organization, was not compatible with the Slavery Law of Southern Nigeria. Consequently, in 1914, it was repealed.[27] Although this action did not abolish House Rule, it removed its chief support, and the system began to disintegrate. While the destruction of House Rule did away with a form of domestic slavery,

[25] *Nigerian Council, Address by the Governor,* 1920, p.35.
[26] Chap. 121, *Laws of Southern Nigeria, cited,* p. 1258.
[27] No. 15 of 1914; *Ordinances.*

a number of political officers believe that, purged of abuse, it should have been retained, in order to give otherwise disorganized native groups a form of political organization. Sir Frederick Lugard, when Governor-General, proposed to reconstitute the Houses as Native Trading Corporations, consisting only of free members, but the idea did not meet the favor of the Secretary of State.[28]

The establishment of political control over the eastern provinces was as typically haphazard as in the west. Following the conclusion of several hundred treaties with local chiefs by the Royal Niger Company,[29] the British government in 1885 declared a protectorate over the many mouths of the Niger Delta, called the Oil Rivers Protectorate. In 1891, a Commissioner and Consul-General was stationed at Old Calabar, with Deputy Commissioners and Vice-Consuls at the Benin, Bonny, Brass, and Forcados rivers, and in the districts of Warri and Sapelo. In 1893, the protectorate was extended into the hinterland under the name of the Niger Coast Protectorate. In 1900, the Crown extended its jurisdiction to territories hitherto occupied by the Royal Niger Company; and in the same year it merged the Niger Coast Protectorate into the Protectorate of Southern Nigeria. District Commissioners were scattered about the country and in 1906, a Native Courts Ordinance was enacted authorizing the establishment of "native" courts, with the district commissioner as president and natives as members.[30] It appears that the European official dominated the decisions of these mixed tribunals, which were based on the principle found in the French colonies to-day.[31] The government did not, nor does it to-day, require the natives of the western provinces, outside of Benin, to pay direct taxes. It is understood that the Government intends to introduce such taxes at the same time that it establishes native treasuries.

[28] *Political Memoranda,* p. 245. [29] Hertslet, *cited,* Vol. I, pp. 450 ff.
[30] Native Courts Ordinance, Chap. 123 (1906) *Laws of Southern Nigeria,* 1908. This ordinance did not apply to the western provinces; cf. Vol. I, p. 670.
[31] Cf. Vol. I, p. 1005.

CHAPTER 39

NORTHERN NIGERIA

1. *Its History*

JUST south of the Sahara lies what is, from the historical standpoint, probably the most fascinating part of Africa—the Sudan. Following the Mohammedan invasion of Egypt and Northern Africa in the seventh century, communications between the Mediterranean and the interior of the Sudan were established, which led to the development of highly civilized empires in the very heart of Africa. Even before the arrival of the Arabs, the kingdom of Ghana was founded about 300 A.D. and reputed to have had "white" rulers. In the thirteenth century, its preeminence was successfully challenged by the Empire of Songhai and by the Mandingo Empire of Melle. Probably the greatest figure in the history of the interior of Africa, at least in the sixteenth century, was Askia the Great, who made the Songhai kingdom renowned not only in the Sudan but along the Mediterranean. In 1500 this leader shattered the Melle Kingdom. But the Songhai kingdom was itself finally overthrown by the Moroccans in 1591, following which the shattered bits have become subject to the Hausas, Tauregs, and Fulani.[1] When the Moors were driven out of Spain, they took their revenge in breaking up these Sudan Empires, and in cutting off the contact between Central Africa and the Mediterranean. For two centuries the Land of the Blacks was cut off from communication with the outside world.

For the next two centuries, the peoples of the Sudan were ruled by Hausa Kings. But following a pilgrimage to Mecca, at the end of the eighteenth century, a Fulani leader, named Othman dan Fodio, returned to the Sudan where he had been living among the indigenous Hausa people, and started a crusade. He wrote letters to the rulers of Timbuktu, Bornu, and of the Hausa States, commanding them in the name of the Prophet to stamp out abuse, to enforce the laws of the Koran, and especially to abolish strong drink and the wearing of ornaments. When a pagan king, alarmed at the activities of this reformer, administered a

[1] Meek, *cited*, Vol. I, p. 68. Probably the best description of the fifteenth century empires of the Sudan is contained in Lady Lugard, *A Tropical Dependency*, London, 1905.

severe reprimand, Othman dan Fodio raised the standard of revolt and declared a jihad or Holy War. "The movement has been always described in history as a Fulani conquest, sometimes an invasion. It was in no sense the latter, and can hardly be called the former, for the Fulanis formed but a small part of the conquering forces, though in nearly every case they provided the leadership. Priests who had for many years been settled in the various Hausa States, preaching the doctrines of Islam, and attracting to themselves the most intelligent and ardent elements of the Hausa race, flocked to Sheik Othman's camp and received from him a flag wherewith to return to their districts and rouse their followers to the Holy War. . . ." [2] Successful in vanquishing Hausa chiefs who had become corrupt in the Faith, Othman now established himself at Sokoto and sent out "mallams" or priests to rule over the Hausa States. Each of these Fulani "mallams" became the founder of a dynasty. All of them, however, looked to the Sultan of Sokoto—Othman and his successors, as their spiritual and, for a time, their political chief. For many years the Empire of Sokoto covered a large part of the Sudan, excluding the Emirate of Bornu, which has existed since the 13th century.

A recent writer describes the history of the Empire as follows: "Founded as a theocracy, it [the Fulani empire] soon developed into a mere tax-collecting sultanate, whose power was based primarily on military supremacy. The Empire was divided into two halves—Gando and Sokoto (or Wurno). Each half consisted of a number of provinces, ruled usually, but not always, by a Fulani governor who was responsible for the good government of his province to the Sultan of Sokoto or Gando, to whom a certain proportion of taxes was forwarded each year. Levies had also to be furnished in time of war. Apart from these requirements of the central government the provinces were left to manage their own affairs. The power of the governor was qualified by (a) a central council, composed of the chief ministers and territorial officials, and (b) the right of every subject, in theory at least, to appeal to the *Sarkin Musulimi* or Sultan of Sokoto. Unsatisfactory governors could be, and not infrequently were, deposed by the Sultan. In the early days of the Fulani empire it was said that the administration was so efficient that a woman could in safety traverse the whole of the empire with a basket of gold on her head. But these good days must soon have passed, for it is generally true to say that the administration of the governors was of a summary and arbitrary character, the chief end being the replenishment of their dissipated resources. The methods adopted for this end were the wholesale plunder of the populace. Slaves were the general currency, and under the extensive system of

[2] C. W. J. Orr, *The Making of Northern Nigeria,* London, 1911, p. 71.

slavery there was an absence of social cohesion, the mass of the subject pagan peoples being reduced to a state of complete economic and moral paralysis." [3]

In 1893 the people of Kano defied Sokoto and chose their own Emir. About the same time, the other governors gained their freedom from Sokoto and became independent Emirs—such as the Emir of Kano and Katsina. Except for the Shehu of Bornu [4] they still look to Sokoto as a spiritual authority. In sending out these new governors, who founded new dynasties, Othman had scarcely touched existing methods of political organization.[5]

An Emirate remained divided into districts in charge of a Fulani fiefholder representing the feudal interests of the Emir. These fiefholders were obliged to pay the Emir an annual tithe. Usually the fiefholders were the biggest officers in the state, one of them holding eighteen different fiefs. They resided, not in their districts, but at the capital. They were represented in the districts by chief ajeles or tax collectors who lived by extortion and were generally detested.[6] Fifty per cent of the tribute which the ajeles collected went to the Emir; twenty-five per cent to the fiefholders; and the remainder was divided between the ajele and subordinate officers. In most of the Emirates, a highly developed judicial system was in existence, the courts of which applied Moslem law and were presided over by professional judges, called Alkalis, over whom in each Emirate a head Alkali acted as a court of appeal.

While the majority of the inhabitants of northern Nigeria were and are Mohammedans, the Animists constitute about thirty-three per cent of the population. They are particularly strong in the province of Munshi, Nasarawa, Ilorin, Yola, and Bauchi. The Moslems predominate in Kano, Sokoto, Bornu, and to a lesser extent in Nupe.[7] In some cases Moslem chiefs ruled pagan tribes. It is a striking fact that despite Moslem domination few if any of these animist people have accepted Mohammedanism during the last fifty years. Half a dozen times the British, after their occupation of the country, attempted to place Moslem chiefs over pagan people—but in each case without success.

The re-discovery of these people of the Sudan, a Mohammedan civilization and system of government, was made by venturesome explorers, the first of which was Mungo Park, who started on his eventu-

[3] Meek, *cited,* Vol. I, p. 257.
[4] Cf. A. Schultze, *The Sultanate of Bornu,* translated by P. A. Benton, London, 1913.
[5] *Gazetteer of Kano Province,* compiled by W. F. Gowers, 1921, p. 10.
[6] *Colonial Reports, Northern Nigeria,* No. 409, 1902, p. 80.
[7] Meek, *cited,* Vol. II, p. 246.

ally fatal quest for the Niger in 1797. A large number of other explorers tried and failed, death being, in most cases, their reward. In 1821 the British government sent an expedition led by Major Denham and Captain Clapperton out across the desert from Tripoli—an expedition which succeeded in reaching the kingdom of Bornu, and in visiting the Fulani kingdoms of Kano, Katsina, and Sokoto. In 1830 Lander discovered the source of the Niger. In 1850 the British Government sent out another expedition via Tripoli, of which the notable German explorer, Dr. Barth, was a member. This expedition visited the Hausa states.

Because of the feeling at home against further expansion [8] the British government did nothing to establish political control over this territory, despite the fact that inter-tribal war and slave-trading not only were disrupting the life of the people, but were also obstructing trade.

2. *The Royal Niger Company*

In 1886 the British government granted a charter to what later became the Royal Niger Company for the purpose, not only of carrying on a commercial business in the valley of the Niger, but also of exercising administrative powers.[9] This Company made treaties with the Sultan of Sokoto in 1885 and 1890, who agreed to the establishment of trading stations. But despite the protests of the Company, the Sultan of Nupe, who was under the suzerainty of Sokoto, continued to make slave raids into pagan areas. In 1897 Sir George Goldie headed a Company force against the Emir of Nupe who was finally deposed. Following this expedition,

[8] Cf. the Resolution of the House of Commons, 1865, Vol. I, p. 790.

[9] Hertslet, *cited,* Vol. I, p. 446. The Company then called the National African Company acquired the basis of its jurisdiction by the negotiation of 306 treaties with various native chiefs. The Emir of Katsena signed a treaty in the following form: "AGREEMENT made on the day of „ 188 , between the King and Chiefs of and the National African Company (Limited) of London.

We, the Undersigned King and Chiefs of with a view to the bettering of the condition of our country and people, do this day cede, with all sovereign rights, to the National African Company (Limited), for ever, the whole of our territory extending from

We also agree that all disputes arising between British or foreign traders or neighboring tribes shall be submitted to the said National African Company (Limited) for settlement.

We also understand that the National African Company have sole power to mine, farm, and build in any portion of our territory.

We also give the National African Company the power to exclude all or any foreigners from our country.

In consideration of the foregoing, the said National African Company bind themselves not to interfere with any native laws or customs of the country consistent with the maintenance of order and good government.

The National African Company agree to pay native owners of land a reasonable amount for any portion they may require.

The National African Company also agree to pay the said King and Chiefs the value of per annum." . . . *Ibid.,* pp. 472-473.

the Emirs of Nupe and Ilorin signed treaties with the Company, agreeing to suppress slave raiding.[10] Growing difficulties with these Emirs, whose exactions the Company could not control, and fear of the activities of the French on the northwestern border, finally led the British Government to send out Colonel Lugard, who arrived in northern Nigeria in 1900 to organize the West Africa Frontier Force and to take over the government. At this time an agreement was made whereby the government acquired the administration from the Royal Niger Company, including all its land and mining rights, in return for which the government would assume the interest on a debt of 250,000 pounds. It undertook to pay 150,000 pounds as compensation for the Company's withdrawal, and another 300,000 pounds for advances made in excess of revenue in the development of the territory. The government undertook also to impose a royalty on all minerals within the greater part of the Protectorate, half of which would be paid to the Company for a period of ninety-nine years.[11]

3. *The Protectorate*

On January 1, 1900, northern Nigeria became a British protectorate, administered by a High Commissioner.[12]

The first task confronting the administration was the pacification of the country. This was quickly accomplished, and the Emirs were given to understand that the final word was now in British hands, in contrast to the treaty policy being followed in southern Nigeria. But instead of overthrowing the native institutions headed by these Emirs, Sir Frederick Lugard decided to maintain the status quo and to use the Emirs as vassal rulers.

Each Emir who loyally came to terms with the British was given a Letter of Appointment which provided that he should rule justly and in accordance with the laws of the protectorate and that he should be guided by the advice of the Resident.[13] The Letter stipulated that minerals and waste lands belonged to the Crown. These Letters of Appointment are still given to new Emirs. Subject to the sole right of the British gov-

[10] Orr, *cited*, pp. 35 ff.

[11] In 1900, the Royal Niger Company reverted to a trading concern. Following the World War, it was acquired by the Lever interests.

[12] Northern Nigeria Order in Council, 1899, *Northern Nigeria Laws*, 1905, p. 5.

[13] The quaint dignity of the most belligerent of these rulers is shown by the following translation of an Arabic letter from the Sultan of Sokoto to the High Commissioner. "From us to you. I do not consent that any one from you should ever dwell with us. I will never agree with you. I will have nothing ever to do with you. Between us and you there are no dealings except as between Musulmans and Unbelievers—War, as God Almighty has enjoined on us. There is no power or strength save in God on high.

"This with salutations."

Colonial Reports, Northern Nigeria, 1902, p. 159.

ernment to raise and control armed forces, to impose taxation, to make law, and dispose of land, "it was the declared policy of the Government to restore to the Chiefs the prestige and authority which they had lost by the British conquest, or forfeited by their own previous mal-administration." In adopting this policy, Sir Frederick Lugard apparently had the native states of India in mind. The European political staff available for this vast territory could never adequately rule it without the aid of native machinery; nor could any system be established which did not meet with the approval of the people, attached as are all Africans to their traditional rulers.[14]

Consequently the British Government simply recognized the existing Emirates and courts, submitting them to a type of control to be described later. Likewise it continued the existing system of taxation, except that it placed assessment in the hands of European officers. Half of the money thus raised was placed in native treasuries from which native officials are paid salaries. This system—of indirect administration—will be discussed soon in detail.

[14] *Political Memoranda,* p. 298.

CHAPTER 40

THE BRITISH CAMEROONS

ONLY a word can be said about the administration of the British Cameroons—an area held by the British Government under mandate from the League of Nations. It contains about 31,150 square miles of territory and a population of 650,000 people living along the eastern frontier of Nigeria. The northern part of this area is administered as a part of the Nigerian Provinces of Bornu and Yola, while the southern parts are administered as a separate Cameroons Province under a Resident at Buea. The land régime existing in the northern provinces has been applied to the north Cameroons, while the southern land régime has been applied to the south. The Government is now considering the desirability of turning back to native communities in the south land which the former German government considered to be Crown land.[1] Native treasuries and native courts are being introduced throughout the territory, and Nigerian principles of administration are being generally followed.

The German Government had introduced plantations of cocoa, palm, and rubber at the base of Mt. Cameroon, alienating some 300,000 acres for this purpose.[2] It appears that the German Government made itself responsible for the labor required by these fifty-eight plantations. "Following the British occupation of the country, though it would have resulted in economic chaos if the system of Government recruiting had been suddenly stopped, it was decided as a general policy, which was also strongly supported by the plantation's management, gradually to abolish that system of recruiting labor." [3] This has now been done, and it appears that the plantations, which employ about 11,000 natives from the interior, rely wholly upon voluntary sources of supply.[4]

[1] Cf. Vol. I, p. 486. The German government followed the policy of native reserves on the basis of six hectares for each adult male. The natives generally complained that the reserves were not large enough and that the worst land was allotted to them. In the northern districts no native reserves were created. *Report on the British Sphere in the Cameroons,* Cmd. 1647 (1922) para. 55.

[2] The cocoa exports from the Cameroons increased from 2,700,000 marks in 1907 to 4,200,000 marks in 1912—a small increase compared with that of the Gold Coast under native production. Cf. Vol. I, p. 856. *Deutsches Kolonial-Lexikon,* Vol. II, p. 204.

[3] Cmd. 1647, *cited,* p. 67.

[4] The report for 1922, appendix, says that as a result of working on European cocoa plantations, laborers have returned home to become farmers themselves.

Following the practice in all Allied countries, the government sequestrated German property during the World War. But unlike British policy in Tanganyika and French policy in Togo and the Cameroons, the Nigerian administration allowed Germans to bid in the auctions of these plantations, held in November, 1924. As a result, most of these plantations are now being operated by their former owners. Despite the overcrowding of reserves, the government made no effort to purchase some of these plantations for natives, as did the government of Tanganyika.

While the northern Cameroons has so far paid its own way, the southern Cameroons has experienced a deficit since 1916, which up to 1922-1923 totaled 179,809 pounds. The annual expenditure on the mandate now amounts to a hundred and twenty thousand pounds a year. In 1923-1924 the deficit was 53,338 pounds. A deficit has existed partly because direct taxation was imposed only in 1922, and also because at least fifty per cent and in some cases seventy-five per cent of the total tax is returned to the native treasury. Moreover, the revival of trade, upon which revenue depends, has been difficult because of the disorganization of the plantation system produced by the war. Native agriculture can be much more quickly revived than European plantations. Likewise, part of the trade of the Cameroons comes overland from Nigeria, and consequently, it is difficult to estimate what proportion of the customs revenue on this trade should be credited to the Cameroons.

Under ordinary circumstances, colonial deficits are borne by the home government. But the Cameroons may, according to the text of the mandate, be administered as "an integral part" of the territory of the mandatory government.[5-6] The British government has apparently interpreted this provision to mean that the adjoining government—Nigeria—may assume the deficit of the mandated area—and such has been the practice. The assumption of this deficit has been criticized by unofficial members of the Nigerian Legislative Council, one of whom said: "It is a Mandated Territory for which the British Government has a Mandate, and I for one am unable to see why the Nigerian government should be saddled with this expenditure." An African member also said that the Imperial Government should be asked to make a grant-in-aid for that purpose.[7] In reply, the Chief Secretary of the Government recalled the fact that

"The well-planned and attended native cocoa-farms established throughout the principal labor-recruiting districts, so different to the primitive cocoa-farms seen in Nigeria, offer striking testimony to the value of experience and example." *Ibid.*, p. 68.

[5-6] The obligations of this mandate are practically identical with those in the other B mandates in Africa. Cf. Vol. I, p. 546.

[7] *Legislative Council Debates*, first session, 1923, pp. 89, 110, 131.

in 1915, the Nigerian Council offered to assume liability for 6,000,000 pounds of the War debt of the Empire. But it was found that this burden, amounting to 360,000 pounds a year for thirty-seven years, would be almost impossible for the local budget to bear. "It was not a pleasant position for Nigeria having to withdraw in this way, but we were at the same time contributing a not insignificant sum towards the administration of the Cameroons Province, and Your Excellency's feeling was that having had to withdraw in the larger matter, it was not the proper time to press for relief from the burden of administering the Cameroons Province." A motion to hold up the Cameroons Estimates was defeated.

The assumption of part of the War debt of a European government by an African colony would appear to violate the principles of trusteeship. While perhaps the assumption of the Cameroons deficit by the Nigerian government may be legal under the wording of the B mandate, it would appear that according to the spirit of the mandates system, any such advance should be borne by the mandatory government at home.[8] The Nigeria Estimates for 1926-1927 do not carry a vote for such a deficit because the Cameroons province is now self-supporting.

[8] For a different aspect of the same policy, i.e., the Togo loan to the Cameroons, cf. Vol. II, p. 284.

CHAPTER 41

INDIRECT ADMINISTRATION

NATIVE administration in Nigeria is based on the principle of recognizing and developing native institutions, subject to British control so as to prevent shocking abuses. The constitutional framework of this system, worked out first in Northern Nigeria, now rests upon a number of ordinances: the Native Authority Ordinance, the Native Courts Ordinance, and the Native Revenue Ordinance, which will be briefly discussed.

1. *The Native Authority Ordinance*[1]

A "Native Authority" under the 1916 Native Authority Ordinance is any Chief or other Native formally recognized by the government. It is the duty of such a Native Authority to maintain order and to appoint native police to assist in this purpose. He is authorized to prevent the commission of any offence and if necessary to arrest the intending offender. He may compel a native to appear before court. He may issue orders on a certain number of subjects not inconsistent with Nigerian Statutes. These orders may be cancelled by the administrative officer. But when once confirmed, orders of the Native Authority must be obeyed, subject to punishment of a fine of twenty pounds or imprisonment for two months, or both. When the authority of native courts is defied in enforcing orders of the Native Authority, and when persons intrigue against a Chief, the British courts may step in to support the tribal authority.

The Chiefs, thus recognized by the British government, are treated as an integral part of the machinery of the administration. "There are not two sets of rulers—British and Native—working either separately or in co-operation, but a single Government in which the Native Chiefs have well-defined duties and an acknowledged status equally with the British officials."[2] It is the policy to urge the Head Chief to delegate authority to District Headmen. Moreover, Chiefs are divided into first and second grade Chiefs, according to the importance of their tribes. The highest rank is borne by the Sultan of Sokoto, the Shehu of Bornu, and the other leading Emirs of the northern provinces, and by the Alafin of Oyo, the Oba of Benin, the Alake of Egbaland, and several other rulers in the south. In recognizing these Chiefs and other native officials, the

[1] Chap. 73, *Laws*, 1923.

[2] *Political Memoranda*, p 298.

government almost invariably follows the wish of the people and the native rules of succession. A short time ago, the Wazir, or prime minister of Sokoto, had a quarrel with the Emir and resigned. The Sultan thereupon nominated another member of the family in which the office of Wazir was hereditary. But since the man was a nonentity the Resident tried to argue with the Emir about the appointment, and the Lieutenant-Governor came to Sokoto and told the Emir that this man would never do. Finally it was agreed that if all the members of the Emir's Judicial Council favored the man, objections would be withdrawn on condition that he serve on probation for one year. It turned out that the wisdom of the Sultan counter-balanced the deficiencies of the new Wazir and that the decision to let the Sultan have his own way was a wise one.

Great ceremony is followed in recognizing a Nigerian Chief. A First Grade Chief is given a Letter of Appointment and a Staff of Office surmounted with silver; in the case of a Second Grade Chief, it is surmounted with a brass headpiece.[3] Meticulous attention to native etiquette is also paid by administrative officers in dealing with Head Chiefs. Thus when an official interviews a subordinate chief, the Head Chief is asked to be present, and when an official goes on a tour, he is accompanied by a representative of the Head Chief who acts as his mouthpiece to transmit orders to village heads. Thus the first principle of Nigerian native policy is the recognition of Native Authority.[4] In southern Nigeria, 224 native authorities have been recognized; in northern Nigeria, 151 [5]—a total of 375. In theory, these native authorities represent tribal units existing at the time that British control was established.

2. *Native Courts*

In the second place, Nigerian native policy rests upon a framework of Native Courts controlled by the Native Courts Ordinance of 1914.[6]

[3] On installation, the Chief takes an oath of allegiance on the Koran (if a Moslem) as follows: "I swear in the name of God to well and truly serve His Majesty King George V. and his representative the Governor-General of Nigeria, to obey the laws of Nigeria and the lawful commands of the Governor and the Lieutenant-Governor, provided they are not contrary to my religion. . . . I will cherish in my heart no treachery or disloyalty, and I will rule my people with justice and without partiality, and as I carry out this oath so may God judge me." *Ibid.*, p. 308. First and Second Grand Chiefs are appointed by the Governor; the more important District Headmen and some Chiefs occupy the third grade, and the less important, the fourth and fifth grade, as the Resident may recommend. These sub-chiefs receive their staff of office from their Paramount Chiefs, in the presence of the Resident and the people.

[4] Where no recognized Chiefs exist, the native court may be gazetted as the Native Authority. Thus about 135 native authorities in Nigeria are also native courts.

[5] *1926 Supplement*, p. 216. These figures do not include the chiefs subordinate to these native authorities.

[6] Chap. 5, *Laws*.

These courts are composed entirely of native judges, who, in the case of Moslem tribes, are usually professional judges, independent of the Emir, but who in pagan tribes are usually chiefs and headmen who also have executive authority. These courts administer Mohammedan or native law and custom, together with such English law as may be embodied in "Rules" drawn up by the Court or Chief and approved by the Governor. Thus in 1918, the Kano Emirate adopted six native court rules in regard to slavery, the concealment of taxes, the assumption of judicial functions, the disposal of rubbish, and the suppression of gambling. Persons violating these rules became liable to penalty.[7]

Four classes of courts are recognized under the Native Courts Ordinance:

1. Grade A courts, usually a "Judicial Council"—which is the tribal council found in the larger native states. When such a council is recognized as a Grade A court, it is given full judicial power in all civil and criminal cases;[8] but no sentence of death may be carried out until it has been confirmed by the Governor. In all of the three Class A courts recognized in southern Nigeria, however, the power of capital punishment has been expressly withheld.

2. Grade B courts have jurisdiction in civil actions in which the debt or demand does not exceed fifty pounds; and in criminal cases where the offense is punished by not more than two years' imprisonment, twenty-four lashes, or a fine of fifty pounds or the equivalent in Native Law of Custom.

3. Grade C courts have a civil jurisdiction where the claim does not exceed, in the northern provinces, twenty pounds, and in the southern provinces, ten pounds, and criminal jurisdiction where the punishment does not exceed six months' imprisonment or a fine of ten pounds.

4. Grade D courts have civil jurisdiction up to ten pounds in the northern provinces and five pounds in the southern provinces, and criminal jurisdiction up to three months' imprisonment, twelve lashes, or five pounds.[9]

[7] In 1925, an amendment to the Native Authority Ordinance was enacted providing: "If a native authority or a judicial council exercising executive functions with the approval of the Governor shall make any lawful and proper order, or if any native tribunal shall make any order, and any such order shall not be complied with or shall be disobeyed, it shall be lawful for any Magistrate to enforce the said order and to inflict upon the person who shall have disregarded the order such penalty as to him shall seem proper." Chap. 73 of *ibid.*

[8] A number of Judicial Councils are allowed to remit the sentence of imprisonment of any prisoner serving a sentence of two years or more—one-fourth of his sentence for good conduct, etc., *1926 Supplement,* p. 154.

[9] *Laws,* Vol. III, p. 209.

The Native Courts in Nigeria are as follows:

1. NORTHERN NIGERIA

Province	A Grade	B Grade	C Grade	D Grade
Adamawa	2	19	15	12
Bauchi	9	11	26	5
Benue	..	6	20	51
Bornu	5	23	8	2
Ilorin	2	18	16	..
Kabba	..	7	25	3
Kano	9	24	8	1
Niger	2	13	30	..
Plateau	..	3	21	10
Sokoto	6	36	15	..
Zaria	3	16	9	11
	38	176	193	95

2. SOUTHERN NIGERIA

Province	Grade A	Grade B	Grade C	Grade D
1. Abeokuta	1	3	11	22
2. Benin	1	11	22	3
3. Calabar		7	25	
4. Cameroons			9	16
5. Ijebu		2	1	17
6. Ogoja		7	8	6
7. Ondo		6	16	
8. Onitsha		5	19	1
9. Owerri		8	26	
10. Oyo	1	4	9	13
11. Warri		8	38	
	3	61	184	78[10]

These courts derive their authority from a warrant issued by the Resident of the province, approved by the governor and notified in the *Gazette.*

Fees are fixed at ten per cent of judgment debts, paid either by the winner or the loser, at the discretion of the court. A fee of five shillings is charged for the issue of a summons to a witness in a civil matter where the claim does not exceed ten pounds, or of ten shillings in excess of ten pounds. Each court has a clerk who keeps a record of the proceedings in the northern provinces. These records are kept in Hausa, and in the south they are kept in English. As a result, the majority of the latter

[10] *Gazette,* 1922, p. 330.

courts must employ clerks recruited from semi-educated youths who have, in many cases, usurped the authority of the real chiefs. It would be more in keeping with the idea of native authority if native court records were kept in the native language, which the British official is already supposed to know.

Strictly speaking, there is no appeal from a native to a provincial court.[11] The district officer has, however, the power at his discretion to transfer a case from the native to the provincial court, and the Resident may revise judgments upon the basis of the monthly returns of criminal cases which each court must submit. Usually, the native may also appeal from a lower to a higher grade native court,[12] particularly in the northern Emirates. Thus at Kano, the Chief Alkali's Court hears appeals from all the native courts in the Emirate.

The tremendous amount of work done by the native courts in the northern provinces is shown for 1925 as follows:

I. Total number of Criminal cases		27,887
A. The most important offenses were:		
1. Assault	3945	
2. Offenses against native court rules	3277	
3. Stealing	4019	
4. Wounding	2408	
5. Murder	30	
6. Homicide	86	
II. Total number of Adultery cases		1,727
III. Total number of Civil cases		147,787
A. The most important civil offenses were:		
1. Matrimonial offenses	74,809	
2. Administration of estates	39,554	
3. Debt	18,055	
IV. Total number of Criminal and Civil cases		175,674
V. Total number of punishments imposed		26,756
A. This number includes:		
11 capital punishments		
861 imprisonments for two years and over		
1,153 imprisonments for between six months and two years		
4,395 imprisonments for less than six months		
23 fines of 20 pounds and over		
14,479 fines under 20 pounds		
4,791 floggings		
1,043 stocks and other punishments		

[11] When a person dissatisfied with the decision of a native court applies to a provincial court, the provincial court cannot refuse to issue a process in any civil matter; but the successful litigant in the native court may raise the plea of *res adjudicata*. Legal Circular, No. 2, June 10, 1924.

[12] Cf. Sec. 17, Native Courts Ordinance.

It thus appears that the court imposes fines in about half the criminal cases. They also impose flogging and imprisonment for less than six months with about equal frequency.

The following statistics are also of interest:

1. Average population per native court	20,486
2. Average population per criminal case	359
3. Average population per civil case (including adultery)	67
4. Average population per civil and criminal case	56

In the south, there is one native court for each 26,000 people. Thus a Nigerian native has much freer access to a tribunal than a native in the French colonies, where the number of tribunals is limited to the number of French administrators.[13]

In the northern provinces, these native courts relieve the European provincial courts of practically all judicial work. In Kano division, the provincial court in 1925 tried only four civil and five criminal cases, in contrast to the native courts, which tried 4,253 criminal and 44,297 civil cases. In Zaria province in 1925, the provincial courts tried only twenty criminal and no civil cases, while the native courts tried a total of 14,080 cases.

In the north, the professional judges, or Alkalis, are paid fixed salaries out of the native treasury. The Alkalis at Kano receive 480 pounds a year, while the sixteen district alkalis receive salaries ranging from ninety-six to one hundred and twenty pounds. Criminal cases are inscribed as: "The Native Administration versus Z." The enforcement of the sentences of a native court is in the hands of the police or messengers of the Native Authority. These are called in the north, Dogari, and among the Yorubas in the south, Olupas. A native court turns over a warrant or a summons to the native chief for execution.

3. *Native Prisons*

Natives sentenced to imprisonment are confined in native administration prisons.[14]

The table on the next page shows that the mortality rate in native prisons is greater than in the government prisons.

The number of inmates in native prisons in the north varies between 10,000 and 13,300, a number which is much greater than that in government prisons, which have less than 3,000. The high death rates in the native prisons were due largely to epidemics which were much more difficult to control in a large than in a small body of men. Nevertheless, it would

[13] Cf. Vol. I, p. 1005.

[14] For a description, Vol. I, p. 706.

Mortality in Prisons

Date	Mortality rate per 1000 persons in Government prisoners		Mortality rate per 1000 prisoners in Native Administration Prisons
	Northern Provinces	Southern Provinces	Average of both Provinces
1922	24.3	23.06	60.10
1923	25.52	30.34	38.27
1924	5.58	34.39	108.9 [15]

appear that prisons rigidly directed by Europeans are healthier places than those directed by natives, subject to European supervision. Even if this is true, it does not necessarily follow that native prisons should be abolished. This health factor is outweighed by the social and political consideration that native prisons like native courts are part of the institutional life of the African which must be developed if Africa is to become self-governing.

4. *Native Treasuries*

The third principle of native administration in Nigeria is the principle of Native Treasuries, which is based on the Native Revenue Ordinance.[16] In the ordinary colony, a government imposes taxes on the natives simply to balance the budget. But in Nigeria, taxation is used also to support the Native Authority. In conquering the Emirs of northern Nigeria in 1900, the British had it within their power to wipe out the former exactions levied by the Emirs on the people. But the British realized that if the chiefs were to be used as part of the administration, and if the peasantry were to be spared illegal exactions, the chiefs should have a regular income. Consequently, Sir Frederick Lugard decided to "retain as far as possible the ancient tribute as sanctioned by Native law and custom, and to preserve the individuality of the institutions of the country; to utilize the Native machinery for the purpose; and to introduce some uniformity and equality in the incidence of taxation in the different provinces." [17] In northern Nigeria and in some of the native states of southern Nigeria, the government imposes a tribute or income tax instead of the head tax found elsewhere in Africa. The object of the income tax

[15] *Annual Medical and Sanitary Report,* Nigeria, 1924, p. 11.
[16] Chap. 74, *Laws.* Extended so far to 12 divisions in the southern provinces. *Ibid.,* Vol. III, p. 510.
[17] *Political Memoranda,* p. 169.

is not only to follow the principle of capacity to pay, but to retain the tithe system of the old days, and to place a unique kind of financial responsibility upon the native authority. In addition to the income or tribute tax, the northern Emirates also impose the jangali or cattle tax. The assessment of these taxes is in the hands of European officers, but their collection is done by the Native Authorities who give individual receipts. The work of assessing these taxes is very arduous. For example, in the Gwaram district, which has a population of 45,000, an administrative officer assisted by half a dozen native clerks, took six weeks for this task in 1924. He not only estimated the population of each village, but also computed the total acreage under millet and other crops, together with the average yield per acre. By multiplying the yield by the local prices, he was able to estimate the income per acre. Through interviews with representative natives, he likewise estimated incomes in various native industries. By this means, the officer found that the gross average income in agriculture was about 70 shillings, ten per cent of which would be seven shillings. But since this figure was considered high compared with that of the previous year, the average tax was fixed at six shillings. The tax was then multiplied by the number of taxpayers in each hamlet and village, and the district head notified the elders, in the form of a tax slip, the lump sum due from their respective villages. The Assessing Officer then determined the incidence of the tax, i.e., the limits within which it might be varied in accordance with individual incomes, in this case, between two and ten shillings.

The village headmen and elders now determine each individual tax, after which they prepare complete tax lists for their villages, with the name of each taxpayer and the amount due from him. This is done under the supervision of the district head. When the latter official informs the European Assessment Officer that every taxpayer has received a slip stating his name and tax, the Assessment Officer checks a number of slips to determine if unauthorized impositions have been made. He also hears complaints about over-assessment. As a rule, the local village councils assess individual taxes in a manner accepted by the natives as fair. The tax lists are revised annually. This method is called "lump sum" assessment.

In more thickly populated districts, a more complicated system of revenue assessment, called "taki," is followed. Under this system, each farm is measured and the value of the crop determined by taking into consideration the average yield, the grade of the soil, and the distance from market. A tax equal to ten per cent of the income thus arrived at is then levied. At present, twenty districts in the Kano division are under

the "taki" system. Three others are under the "revenue" system, where instead of simply pacing off the land, native surveyors trained in the Native Survey School at Kano, mark it off by chain and compass. These efforts to survey each man's lands are so arduous that the plan is not being extended in the less populated districts.

At Kano, the Judicial Council of the Emir has worked out a system of classifying native industries, such as dyeing, weaving and tanning, into four groups, with taxes fixed in accordance with the average income of each. Unlike the other native rulers, the Shehu of Bornu takes full responsibility for the assessment of taxes, a task which, according to political officers, he performs remarkably well.[18] The collection of all taxes is carried out by the district heads or chiefs who give individual receipts to the taxpayers. Women as well as men pay taxes. One difficulty with the income tax system is that taxes vary from one province to another. In Kano, the incidence per male is six shillings, while in the neighboring province of Zaria, it is only four. These differences sometimes lead to migration from one province to another. They may, however, be equalized by the Lieutenant-Governor.

Half of the money thus collected goes to the British Treasury at Lagos where it is used to pay the salaries of British officials and for other purposes. The other half is paid into what are called Native Treasuries. A native treasury is a fund attached to a native state. In addition to receiving half the taxes, the native treasuries receive fees and fines from native courts and certain royalties and licenses. In the larger native states, a native treasurer is responsible for the administration of this fund. Estimates are annually drawn up by the chief and his council, subject to the advice of the British official concerned.

Out of these estimates the native officials are paid a salary. In some cases, however, district heads and others are merely paid a commission on taxes, a system which the Nigerian government is rapidly abolishing.[19]

Funds are deposited in a European bank; and the native treasurers can draw on these funds upon a warrant signed by a European official. However, the freedom of the treasurer varies with the native government.[20] Accounts are subject to the audit of the Resident.

[18] Each Assessment Officer submits to the Resident of the province an assessment report of his district which is transmitted to the Lieutenant-Governor for approval. Having been approved, it becomes an "approved assessment."

[19] Mr. H. R. Palmer, the Lieutenant-Governor of the northern provinces says: "As long as the Chiefs took a share, it was almost impossible to lay stress on the distinction between the Government share and the collector's share; but, when they are salaried, chiefs are bound to bring their full tribute to account, and it is more difficult to conceal temporary financial expedients. They must now collect accurately and account accurately, or be found out." *Political Memoranda,* p. 204.

[20] Cf. Vol. I, p. 714.

The Emirs of Kano and Sokoto and the Shehu of Bornu each receive an annual salary of five thousand pounds plus an establishment charge of one thousand pounds—a total of six thousand pounds or thirty thousand dollars. An Emir thus receives three times the salary of a British Resident, and twice that of the Lieutenant-Governor. These salaries supposedly represent the income received by these Emirs before the British conquest. But in view of the removal of the uncertainties which constant warfare formerly produced, it seems certain that the Emirs now receive more than they did in the old days. But the expenses of maintaining an establishment, and especially of providing for hundreds of guests, not to mention wives, is still tremendous.[21]

A large number of the native treasuries in the north pay some form of stipend to the religious head of the community, the lemonou. Great numbers of scribes and messengers are also employed.

While more than half of the funds in these native treasuries go to native salaries, appropriations are also made for such social purposes as the construction of wells, schools, and public works. In order that the expenditure of these funds may be properly supervised, native administrations employ European officials, such as engineers or educators seconded from the British government. These officials not only expend the money but in theory try to educate the natives eventually to perform the task of expending this money themselves.

After the native treasury Estimates are drawn up and approved by the Resident and the Lieutenant-Governor, they are sent to Lagos to be confirmed. Even having been confirmed, these Estimates may be altered within limits by the local authorities. For this purpose, native treasuries are divided into three groups, the first of which is called "fully organized." The fully organized Emirates have the power, subject to the consent of the Resident, to reallocate approved expenditures in any way or to increase fresh expenditure up to five hundred pounds for recurrent expenditures and a thousand pounds for extraordinary heads, provided that the total expenditure does not exceed the total revenue for the year. The remaining treasuries, classified as partially organized or unorganized, may change expenditures to a much more limited extent.

There are sixty-one native treasuries in the northern provinces of Nigeria whose total annual revenue increased from 324,569 pounds in 1915 to 723,679 pounds in 1924-25, a sum equal to 13.4 per cent of the ordinary revenue of the Nigerian government. The estimated surplus balance of these treasuries (in 1927), is 1,203,480 pounds, of which some 420,000 pounds are invested in government securities. In the

[21] Cf. Vol. I, p. 701.

southern provinces, there are nineteen treasuries having a total revenue, in 1926-27, of 245,522 pounds,[22] and an estimated surplus of 118,082 pounds.

5. *Native Administration Estimates*

The revenue of the northern provinces comes from the following sources:

Revenue of the Southern Provinces, 1926-1927

Tribute Tax	Jangali or Cattle Tax	Native Courts	Interest on investments	Other Receipts	Total
£482,164	135,183	37,168	35,500	21,431	711,446

The revenue of the southern provinces comes from the following sources:

Revenue of the Southern Provinces, 1926-1927

General Tax	Native Courts	Other Receipts	Total
£130,140	80,705	34,677	245,522

The summary of leading expenditures in the northern provinces is as follows:

Expenditure in Northern Provinces, 1926-1927

General Administration	Public Works	Education	Medical and Sanitary	Agriculture and Forestry
£460,789	111,377	34,564	9,687	13,188[23]

All of these sums are handled by native treasurers, many of whom know no English, and who are subject only to the supervision of a political officer. Thus the Treasurer of Bornu busily concerns himself with such intricacies as "reallocation of votes." These treasurers generally have mastered the formulæ of western accounting methods with amazing skill, and during the last ten years there have been only three cases of embezzlement by native treasurers in Northern Nigeria.[24] A short time ago, the

[22] These figures are taken from *Northern Provinces Native Administration Estimates*, 1926-1927, pp. 216 ff.; and *Southern Provinces Native Administration Estimates*, 1926-27, p. 63.

[23] The detailed expenditure of the Native Treasuries of the Northern Provinces for 1926-27 is as follows: a. Central, £88,302; b. District Heads, 127,996; c. Village Heads, 107,328; d. Judicial, 45,537; e. Treasury, 8,827; f. Police, 52,495; g. Prisons, 30,304; h. Various, 13,815; i. Works Recurrent, 71,733; j. Capital Works, 39,644; k. Education, 34,564; l. Survey, 9,992; m. Medical and Sanitary, 9,687; n. Agriculture and forestry, 13,188; o. Miscellaneous, 12,153. The total is 665,565 pounds.

[24] But cf. Vol. I, p. 707.

native treasurer of Sokoto committed suicide in his Strong Room—as would any honorable European cashier—because of a shortage of funds! At the headquarters of these native treasuries there is remarkably little leakage or corruption because of the tight control which British officials impose. The real difficulties arise out in the districts where illegal exactions more easily escape detection. Final judgment on these matters must, however, be reserved until after a discussion of a few of the native governments of Nigeria in actual operation.

CHAPTER 42

NATIVE SELF-GOVERNMENT IN NIGERIA

1. *The Kano Emirate*

Two days' train travel from Lagos brings the visitor into the heart of the Kano Emirate, a kingdom of a million souls, ruled over by a Fulani Emir. The country over which he holds sway is heavily populated for Africa; and its inhabitants, living in baked mud houses, till the soil with a skill which is matched probably nowhere else in Africa. Some of these people, pressed by the limitation of land, have learned the use of manure and of irrigation. The Hausa people live upon guinea-corn, millet or maize flour which they store in bins or granaries. They also grow some yams. Large quantities of groundnuts, shea nuts, and hides are sold to traders for export across the seas. Tin smelting and the art of tanning have been known to these people for many years.[1] Tradition has it that they have originated the sandals worn throughout the Sudan. Likewise one may see women inside the walls of Kano dyeing cloth, woven out of native cotton, in bright colors of red, yellow, black, and green. The making of pottery, spinning and weaving also occupies their daily lives.

Kano is the capital of the Emirate which is divided into sixteen districts, each having a head appointed by the Emir. Each head keeps a representative at the capital; while the Emir assigns one of his "dogaris" to each district to bring to the capital prisoners convicted by the local court. Under the old régime, these districts were arbitrarily divided up among extortionate fiefholders. The people never gave to the district head the traditional respect they paid to the Emir. Consequently, since the British occupation, the problem of strengthening and controlling native authority has been greater than that of controlling the central authority. The city of Kano, occupied by 60,000 people garbed in the flowing robes of Biblical times, is an immense beehive of picturesque mud houses and compounds. The city is enclosed by a mud wall twelve miles in circumference and broken by some thirteen gates through which farmers drive

[1] At Bida, in Nupe Province, the Hausas have learned the art of glass-making. They also manufacture silver wire from French five-franc pieces. Meek, *cited*, Vol. I, pp. 56 ff.

their caravans of donkeys or of camels on the way to market, or through which the gaily caparisoned horses of the Emir gallop, bearing the Emir's messenger to the house of the Resident a mile or so away. At the gates of these walls the blind, the beggars, and the lepers sit and beg for alms. Within the city, the visitor finds what is probably the largest market in Africa. Here one sees salt from Lake Tchad being exchanged for dates from Algeria. On one side of the street are the cheap trinkets of European merchantdom; on the other, are delicately made native earthen ware and highly dyed native cloth. In the dry season, naked youths carry pigskins full of water into the city, drawn from wells several miles away, to quench the thirst of the Kano inhabitants. At the market hundreds of cattle and sheep are bought and sold; and native butchers do a flourishing trade, despite the thousands of flies which swarm over the carcasses! For some unknown reason, Arab traders have been allowed to establish themselves within the city walls. No Europeans, however, whether officials, missionaries or traders can live within the city. Along with Syrians and "stranger" natives they must live outside in the European reservation, where they are administered by a European magistrate.

In yet another part of the city is a picturesque mosque. And in the official quarters, one notes an immense compound which guards the Emir and his many wives from the vulgar eye. However, on Fridays he regularly receives the children to whom he imparts fatherly advice. The gate-way to his compound is guarded by mounted horsemen and by Dogari—police—who also patrol the town. Hitherto these Dogari have lived at home and hence have suffered from a want of discipline. Their inability to cope with the thieves of Kano led to the formation, in the spring of 1926, of a Special Police Force composed of ex-soldiers and ex-dogari, now housed in a separate barracks and living under military discipline in command of a native chief of police.

Separating business from pleasure, the Emir conducts his administrative activities in a secretariat, located farther down the street from his palace, in charge of a head Mallam. Here various records, most of which are in Arabic, are filed. Nearby is a Revenue Office where an individual tax register of every taxpayer in the Emirate is kept by another native Mallam who hears all protests in regard to over-assessment. The most modern building in Kano, however, is the Treasury—a building designed on Moslem lines and built of baked mud. It is inhabited by a native Treasurer and other dusty individuals who move noiselessly about in sandaled feet and flowing robes. What a contrast to find bicycles reposing in the corridor and a telephone and all the devices of European book-

keeping on the Treasurer's desk! The Treasurer knows no English—he keeps his books in Hausa. It is really amazing how successfully these Native Treasuries, with the advice of British officials, learn the intricacies of European accounting and assume the responsibility for the administration of large sums. District heads bring in all taxes to this office where they are entered on the books and then sent to a white man's bank, located in the European reservation—unless it is too late in the day, when they are locked in the Treasurer's Strong Room. The bank gives the government a receipt for its share of fifty per cent, and the Native Administration a similar receipt for its share. The Native Treasury enters all revenue in a Treasury Cash Book. All expenditure must be authorized by a Vote Service Ledger, based on the Estimates. These Estimates are annually framed by the Emir and three waziris, or ministers, with the advice of the Resident.[2] Vouchers for expenditures of a purely local nature, such as salaries, are drawn and checks written by the Treasury. But if the expenditures are made to Europeans, the voucher is usually countersigned by a European official. The Treasurer also transmits to each district head a lump sum with which to pay his clerks and laborers. The estimates usually contain an appropriation for contingent expenditures, likewise controlled by the native administration, although such items are pretty carefully watched by the European officials.

The actual revenue of the Kano Native Treasury amounts to about 126,000 pounds, 22,000 pounds of which comes from the Cattle Tax (Jangali) and 83,376 pounds from the Tribute or income tax. The remainder comes from fees and fines of native courts; interest on investments; and such receipts as market dues and school fees. About 75,000 pounds out of the 125,000 pounds in the Kano treasury annually goes to administrative expenses.[3] The Emir receives 6,000 pounds and his Prime Minister and the "Madakin Kano" each receive a thousand pounds annually; while the Sarkin Bai receives 800 pounds. About a hundred messengers and twenty scribes are employed by the central government. Salaries are also paid to the district heads—usually 480 pounds each—who are given a number of messengers and mallams to assist them. The Village Heads are not paid a salary as yet, but receive twenty per cent of the Native Administration Share of the Taxes.

The Chief Alkali—the Alkalin Kano or chief justice—receives a salary

[2] The Resident of Kano Province lives in the European reservation four or five miles away. But the Resident of Kano division, who is in immediate control of the Emirate, lives at Nassarawa about a mile from the city gates.

[3] As a result of the British occupation, the number of superfluous native office-holders on the payroll has been greatly reduced. Now there are only ten or fifteen paid offices in the central government, excluding the clerks or mallams and messengers.

of 540 pounds; while an Alkali—or judge—in each district usually receives 96 pounds. The Treasurer receives the same salary as the Chief Alkali. The Chief of Police, called a Sarkin Dogari, gets 60 pounds a year; while the Chief Warden of the Prison, strangely enough, is paid more —96 pounds.

The rest of the revenue goes to public works, education, survey, and to sanitary work. The Native Administration keeps its building in repair, and maintains the roads and workshops. It is now building a beautiful Moslem library out of mud, along lines of Moslem art, yet in conformity with European ideas of structure. At first glance one gets a shock in seeing a native in a flowing robe and sandaled feet operating a steam roller or driving a motor lorry. It is equally surprising to one who believes that sanitation is only for the West to know that the Kano administration is putting into force a system of town-planning. Originally the people of Kano, content with the winding paths of their forefathers, felt no need for streets. But difficulties in regard to sanitation, the detection of thieves, and the promotion of trade arose when 60,000 people lived huddled together without any system of roads. Consequently, at the suggestion of the British officials, the Native Administration adopted a town-planning scheme as a result of which broad streets have been cut through the city and culverts and drains installed. This necessitated the destruction of a number of native houses, for which compensation was always paid, in some cases amounting to a hundred pounds.

Now the Emirs of Kano or of Katsina have never had the advantages of a modern education, and they were naturally prejudiced against the introduction of any of the contraptions of western industry. But having learned the power of such instruments and the improvement they can make in the life of the people, the Native Administrations have come to welcome such things as machinery, education, and, to a lesser extent, medical aid. But the construction of roads and of buildings along European lines requires a technical knowledge and experience which no native has. Consequently, the Native Administrations employ Europeans—seconded from the general government—to direct these activities and also to instruct natives how ultimately to direct these activities themselves. Thus the Kano Emirate pays a European Foreman of Works and a European surveyor each a salary of a thousand pounds. This development has gone even further in some of the native states of southern Nigeria.[4] Likewise the Kano Estimates pay the salaries of native teachers in the Art and Crafts School; and the plan is for these Estimates to assume the full expense of native teachers and of school buildings in the future.

[4] Cf. Vol. I, p. 713.

The central government will merely pay the salaries of European teachers and inspectors.

So far, Kano has done little to provide medical aid for its people. This has been due to native prejudice and apathy. This prejudice has been partly the result of the fact that government doctors do not usually remain at the Kano hospital (in the European reservation) long enough to win the confidence of the people.

The Native Administration also supports eight native agricultural instructors, seven stock inspectors, ten veterinary apprentices, and several forest guards. A most ambitious project is now being undertaken to supply the city with waterworks. As a result of the drought which annually dries up the wells, Kano has been subject to recurrent water shortages. Engineers have worked out a project of drilling wells in the nearby river and building a dam which will cost about 100,000 pounds. Half of this expenditure will be met by the reserves in the Kano Treasury, while half will be borne by the British Treasury. The construction of these highly technical works must necessarily be in the hands of the British Public Works Department.

Probably the most interesting and most vital of the native institutions at Kano is the native court. The Chief Alkali's court is held in a courthouse having a great arched room, with a mud floor, at the end of which is a mud dais covered with mats and brightly colored native robes, upon which the judge solemnly sits. The Chief Alkali, a kindly old man, wearing a turban and a richly decorated gown, is assisted by five "mallams" who sit at his left on the floor and keep minutes of the case in Arabic. They may also be consulted on points in Mohammedan law.[5] In the center of the room the plaintiff and defendant squat on the ground. Hovering over these parties is an official, whom we would call a sergeant-at-arms, who orders them to speak up when they mumble their words. Sitting to the right of the Alkali are the assessors—native officials who go out and determine damage to property.

Women are not allowed to be seen in Mohammedan courts—in this respect they are more favored by pagan tribunals. But back of the Alkali's dais is a woman's room, constantly occupied by applicants for divorce. A hole has been cut in the wall separating the court from the room, about two or three feet above the ground, and a woman wishing the intervention of the court shouts—when the time comes—through the hole to the native sergeant-at-arms, standing at the other side, who repeats her complaint to the judge!

[5] The Maliki rite is followed; cf. Ruxton's translation of Perron's *Jurisprudence Musalmane*.

All of these proceedings are in the native language; and native Moslem law and procedure are applied. These tribunals do not, except at European insistence, strictly follow European rules of evidence. Several years ago, the British Resident instructed the courts not to convict thieves without evidence of the overt act of thieving. Now Kano is afflicted by a guild of thieves who are said to be the richest people in the community. But as a result of these instructions, the native courts could not convict a single thief. The situation became worse and worse until thieves would openly blackmail people in the market, telling them that if they did not pay a certain sum, their house would be robbed that night! The situation became so bad that the British Resident finally told the native courts to go back to their own rules of evidence. A thief would now be brought in and when a certain number of natives testified "Yes, we all know he is a thief," he was convicted. The native method was not lax but simply adapted to the people for whom it had been framed. As a result, thieving was soon materially reduced, and there were few or no complaints that innocent individuals suffered in the process.[6]

After listening to some of these cases, one is led to believe that whatever the abuses of these courts may be—and they would be many unless rigidly inspected by officials—a native secures more substantial justice and greater satisfaction in being tried by judges of his own race, who know his point of view and his language, and who are willing to sit for hours over matters which a European would impatiently call a detail and would not probably, for that matter, understand, than to be tried by European officials, over-burdened with thousands of other duties. Of even more importance, the exercise of judicial duties by native authorities is a most fundamental means of training them in the art of self-government.

At Kano as elsewhere, the courts impose fines in about half the criminal cases. But more severe punishments are also administered. The court has power to impose capital punishment for murder, and after the sentence is approved by the Governor of Nigeria, the native authority carries out the execution. In Kano executions still take place in the open market, the victim's head being sliced off by a professional execu-

[6] "Where the European, driven by the dictates of pure reason, would have to dismiss 75 per cent of the cases for want of evidence, the Chiefs work on intuition and the law of probabilities. Left to themselves, they would scarcely trouble to call that fad of the white man's, the witness, in whose value the parties concerned are now coming to have a childlike faith, but whose parrot-like repetition of his principal's case would not deceive the most credulous. In dowry cases, it is almost unknown for either side to tell the truth, and yet the Chiefs settle hundreds to the apparent content of both parties." As a result of the European innovation of the witness, some natives now have become professional witnesses, hiring themselves out to either party! *Report on the Mandate of the British Cameroons,* 1924, C. 452 (h) M 166 (h) 1925, p. 28.

tioner with a long knife! The British authorities attempted to persuade the Emir to abolish this custom in favor of hanging, but the Emir and his Council could see no advantage in adopting what to them seemed to be a more cruel method. Outside the Kano gates one may see old-fashioned stocks in which native prisoners are exposed to the derision of passers-by. The courts not only administer flogging but in the past it was the custom to whip women, guilty of adultery, on the buttocks. But the "humanitarian" sentiment in England made such an outcry that this preventive of immorality has been made taboo.

Prisoners sentenced by any of the district courts and by the Chief Alkali's court at Kano are imprisoned in the Kano native prison. This establishment is surrounded by an immense double wall made out of sun-dried mud. It holds about 800 prisoners, in charge of a Native Warden and assistants, some of whom are women who look after the women prisoners in a separate part of the enclosure. The British authorities do not believe it is wise to allow the wardens to go armed. But in order to prevent escape, the prisoners are obliged to wear light chains.[7] Even so, prisoners escape—the story is told of a particularly notorious chief who escaped so often that the despairing warden finally agreed to pay him three-pence a day to stay in jail! Practically all prisoners, however, who escape are sooner or later reported by natives and caught. A Good Conduct gang may go unchained.

The Chief Warden admits no one to the prison except on a warrant from the Alkali's or Emir's court. Upon entrance the name of every prisoner is entered on a record book by the Warden, which is countersigned by a political officer who determines whether or not the man wants an appeal. The prisoner is then vaccinated for smallpox and his clothes disinfected; his belongings and valuables are placed in a storeroom to await his release. The Warden has no disciplinary powers; and if a prisoner becomes unruly, he is brought before the Emir's council for sentence. A European medical officer inspects the prison once a week; while political officers also make frequent visits to hear complaints.

A separate prison for lepers and also for debtors is maintained. Imprisonment for debt still takes place at Kano as in many other African communities—usually based on the principle of family responsibility. A man who refuses to pay a debt is imprisoned on the theory that if he does not "dig up," his family will come to his rescue.

Without doubt, the finest native prison in Nigeria is at Zaria, a few

[7] As a rule no prisoners in an ordinary British colonial prison are ever chained. But they are watched by armed guards.

hours train ride from Kano. It is kept spotlessly clean, and its sanitary arrangements are all that westerners could demand. A weaving establishment, where prisoners weave cloth on Indian looms and a corn grinding machine, enables them to pass some of their time in a worth-while way. These native prisons would do credit to most European penitentiaries and would put some American institutions to shame.

Thus, as far as these various activities are concerned, the native government of Kano and of other native states in Nigeria is really self-governing, subject only to the general control of Europeans. It is inevitable under such a system that Emirs and lesser officials, who remember the days when they lived on robbery and extortion, should be tempted to make illegal exactions. This temptation has to a certain extent been removed by the fact that they now receive regular salaries. But when the vigilance of European supervision was relaxed, as it necessarily was during the World War, these traits inevitably reappeared. In May, 1920, the Resident of Kano wrote the Governor that "The Native Administration has stepped back to what it was twelve years or so ago, and the rapidity of the descent has been remarkable. Bribery and corruption to some extent are certain to occur among the underlings of a Native Administration: even the native agents and employees of a direct British Administration are by no means exempt. But in Kano the bribery and corruption are almost naked and quite unashamed. The peasantry, after some years of light taxation and high prices, are ready to pay not only to avoid illegal acts but to evade their lawful obligations. Village headships are being bought and sold; taxes are being embezzled, the District Heads and their satellites are having the time of their recent lives: Village Heads are maintaining and protecting professional thieves, access to the Emir and his court is largely at the mercy of a gang of ex-slaves and parasites." [8]

The Resident accounted for this state of affairs largely because of the inadequate size of the British administrative staff. One district officer had to look after a population larger than the entire colony of the Gold Coast! In 1921 the activities of the Zaria Emir in connection with slave-dealing led to his deposition.

An increase in the British staff and the deportation in 1925 of the gang of ex-slaves who had gained control of the Kano Emir led to a marked improvement of affairs. Unlike the old days, the peasants are

[8] Letter quoted, *Legislative Council, Address by the Governor,* 1925, p. 43. In 1921-22, one hundred and fifty-two village heads out of eight hundred and sixteen village heads defaulted with their tax money. In 1922-23, ninety out of 1136 heads defaulted. This improvement was due to the introduction of individual receipts and the reduction in the size of the village units.

not afraid to complain of mistreatment, and if they secure no redress from their chiefs and the Emir, they go to British officers.[9]

2. *The Yoruba States*

This system of indirect rule was worked out first in Northern Nigeria by Sir Frederick Lugard and his successor, Sir Percy Girouard. In the Yoruba states of the south the British exercised little control over the native states, and collected no taxes.[10] Until the amalgamation of northern and southern Nigeria, there was some jealousy between the two governments over native policy. With the amalgamation of the two protectorates in 1914, however, Sir Frederick Lugard decided to apply the principles of indirect administration to the south. But as this involved European supervision of native courts and the imposition of direct taxation to provide funds for native treasuries, the establishment of indirect administration led to considerable native opposition, especially in the conservative kingdom of Oyo. The suppression of some native courts, the imposition of direct taxation, the popular objection to the new police of the Alafin, called "numbered men," and the request for a contribution to the Red Cross which the chiefs used as an excuse to exact funds from unwilling natives—which partly went into their own pockets—led to the Iseyn rebellion in 1916. One of the first acts of the rebels was to burn down the new native court houses and to kill one of the native judges. The Government sternly repressed the revolt, hanging about fourteen of the ringleaders.[11]

At the present time, however, the people and chiefs of Oyo seem to be well content with the system of administration. The Alafin's Council is a class A court, save for capital punishment, and under it are eight native courts, presided over in important cases by the district head who was the old provincial governor. In contrast to the Alkali system in the Moslem Emirates, pagan kingdoms and tribes combine executive and judicial power in the chiefs.

In theory an income tax is imposed on the people of two and one-half per cent of the gross income of the farmer; but in view of the equality of

[9] The conditions in the Kano and other Emirates following the War were critically described by Captain J. F. J. Fitzpatrick ("late District Officer N.P. Nigeria") in an article "Nigeria's Curse—The Native Administration," *The National Review,* December, 1924. The Governor of Nigeria declared that Captain Fitzpatrick was a "discharged and discredited officer of Government—who, as it chances has never served in an Emirate of the North, save for a few months at Ilorin." *Nigerian Council, Address by the Governor,* 1925, p. 50.

[10] Cf. Vol. I, p. 672.

[11] One writer, apparently a native, says that the Asehin, the district head, murdered children in order to obtain "medicine," and that the people revolted against him on this account. A. Folarin, *The Oke Iho-Isehin Escapade,* Lagos, 1918.

most such incomes, the tax really amounts to a poll tax of six shillings. Native traders, however, are taxed five per cent; while natives possessing unearned incomes, such as rents of land, are taxed six per cent. About 16,000 out of the 22,700 pounds in the Native Treasury is expended on administration, the Alafin receiving 4800 pounds a year.[12] All checks written by the Oyo native treasurer must be countersigned by a European officer. About half of the roads in the kingdom are maintained by the native administration, under the direction of seconded European engineers; while the other half is maintained by the European public works department. The Native Administration has installed a series of wells and pumps throughout the town of Oyo, which are a boon to the native housewife. It also is expending sums on the construction of cement culverts and rest houses. Within the Alafin's compounds two fine stone buildings, decorated with native furniture and art, have been constructed, one of which is used for a reception hall on public occasions. The budget also maintains a Native Administration School, several vaccinators and forest guards. It administers five native reserves.[13]

The native government in Ibadan, as we have seen, recognizes the suzerainty of the Alafin of Oyo. When the Bale and Council of Ibadan make rules, it is with the concurrence of the Alafin. This form of native legislative power is frequently exercised in Ibadan as in other states. Thus in 1918 the Bale made a rule providing that a man wishing to build a house should get a permit from the Native Administration. Likewise in 1920 the Bale issued orders that every bicycle owner should take out a license. Farmers here pay an income tax of two and one-half per cent of their income, which amounts to about seven shillings. Traders pay five per cent, and they are obliged to fill out regular income tax returns. In the case of an illiterate trader, the district commissioner calls his neighbors together to find out what the value of the man's wealth is. The highest tax paid in 1926 was thirty-five pounds.

It appears that European supervision is more severe in Ibadan than in the other leading native states. Thus the British officer visits the jail daily and no one is admitted without his consent. In the settlement of a boundary dispute with the Egbas, the Alake and Council handled the negotiations for the Egba government virtually independently of the Resident; but the negotiations for Ibadan were handled by European officials. It appears that in the past the Resident has presided at the meetings of the Ibadan Council.[14] Under such a system, there is a danger that indirect administration may become direct administration.

[12] Half of this is paid by the Ibadan government. [13] Cf. Vol. I, p. 759.
[14] C. G. Elgee, *The Evolution of Ibadan,* Lagos, 1914, p. 29.

At the present time there are five different native states who are Yoruba speaking and who belong to the Yoruba race—Oyo, Ibadan, Ife, Ijesha and Ijebu. These at one time were united. Ilorin in the northern provinces is also Yoruba. The future union of these different fragments of the same race would naturally seem desirable. But it appears that the prospects for union are more remote now than in the past. The Oni of Ilesha feels that it is a reflection on his dignity to have only an assistant district commissioner over him, and so he is demanding a Resident all his own! Nevertheless, the British government might gradually promote this sentiment of union by the convocation of an annual council of Yoruba chiefs, just as it might convoke annual councils of Emirs in the north.

3. *The Egba Government*

Following the termination of the Egba "independence" treaty in 1914, the British government gradually introduced the system of indirect administration. The Native Courts Ordinance was applied and a native treasury established. For the first few years, however, it was financed by the old system of tolls which were finally abolished in favor of direct taxation in 1918. A number of difficulties beset the early years of the administration. Educated clerks, brought in from Lagos and elsewhere for the new native courts, committed a number of abuses. The people were unfamiliar with the sanitary requirements imposed at the suggestion of the British authority. Likewise the Alake made excessive demands for free labor. These matters formed the object of a protest from the natives to the Alake and the Council in 1917[15]. The people also resented the introduction of direct taxes in 1918—a period of abnormally high prices. Protests were repeatedly made against Mr. Edun whom the British government had allowed to remain in office despite the Ijemo affair of 1914. Hearing mutterings of revolt, the British Resident called a mass meeting where he precipitately told the people that he was sending for troops, which led the natives to begin a revolt called the Adubi War. The leaders in this movement had apparently served in the Cameroons campaign, since they understood military methods, as evidenced by the fact that they tore up the railway and pulled down the telegraph lines. One European was deliberately killed. British troops quickly suppressed the revolt; eleven natives were executed in connection with the murder of the Osile, a district chief; while five others were each given five years' imprisonment for promoting the war. Following the trouble, the Lagos Egba Society was formed for the purpose of protecting the rights of Egbaland.

[15] Losi, *History of Abeokuta, cited,* pp. 140 ff. Ajisafe, *History of Abeokuta, cited,* Chap. 82.

It is believed that Lagos natives inspired the Egbas to revolt out of spite against the British who had stopped certain land transactions, and also out of spite over the Water Rate episode in 1916. A Commission of Inquiry investigated the Adubi War, but as in the case of the Ijemo report, the government has declined to publish the findings. It is believed that the Resident provoked the revolt by acting with undue haste. He later left the Nigerian service. Thus through the Ijemo trouble and the Adubi War, the Egba government had an inauspicious reformation.

While the Egba government is divided up into fourteen tribute districts, it has never had any traditional district heads as have Oyo or Ibadan. Consequently the government is overcentralized; everything is done from the capital at Abeokuta. Tax collectors of the Alake periodically tour the country and gather in the taxes from village heads.

The head of the government is the Alake, a native king, who is assisted by a Council organized on a traditional basis.

Before 1926, the Egba Council was composed of twenty-eight members, fourteen of whom represented the Alake and the other fourteen represented the wards. These members held office for life. But an agitation soon arose for a wider basis of representation in the Council. According to the Alake, "Many chiefs of intelligence, having no chance of admission into the arena of Council, feel themselves compelled to remain outside wasting their precious gifts and valuable talents in the desert air." [16]

After a discussion of four years, it was decided to change the basis of the Council. The seven leading chiefs continue to hold office for life, but the other twenty-one members are to hold their seats for a period of three years. Members are to be nominated by the several divisions in Egbaland and the names of the chiefs thus nominated are submitted to the Alake and Council who will make the appointment.

Difficulties soon arose in applying the principle, primarily because so many chiefs wished to become members of the Council. Despite the fact that Ogboni Chiefs comprised fourteen out of the twenty-one members of the Council, the Ogboni society stirred up a great deal of trouble over the basis of representation, which was only quieted after a number of Council meetings and public Barazas.[17]

[16] Speech at inauguration of New Council, *Egba Administration Bulletin,* April 16, 1926, p. 37.

[17] Cf. Minutes of the Council, April 1, 8, 1926, *ibid.,* May 15, 1926. It appears that much of the agitation over this and other subjects was stimulated by disaffected Egba natives living in Lagos. In an Address to the Chiefs, the Lieutenant-Governor said, "I would warn all Egbas against busy-bodies, for the most part residing outside the limits of Egbaland. Every indication makes me believe that they can be no good, but that they are out for themselves, after shielding them-

Thus the beginnings of the elective principle have been introduced. It is important to note that this Council, like the Emirs Councils in the northern states, is a native institution. It is not like the Transkei or Kenya Council—something invented by Europeans to fit native needs according to European conceptions.

Presided over by the Alake, the Council meets every Thursday; only three (including the Alake) out of the twenty-eight members can speak English; discussions are consequently conducted in the native language. The Council contains a representative (Balogun) of the Christians and also a representative of the Mohammedans. The Resident or District Commissioner may attend meetings to discuss particular matters, but he withdraws when a decision is to be made.

The work of the Council is usually initiated by the Alake who may act at the advice of the Resident. The Council has a number of committees; thus the Alake may appoint a Valuation Committee to determine the compensation to be paid for land expropriated by the government. The Council likewise has appointed committees on land tenure and boundary disputes and to make plans for the celebration of the Egba centenary. Recently the Alake sent the Balogun of the Christians to investigate the administration of King Olota who is under the Alake's jurisdiction. On his return he presented a detailed report on the needs of the country. Native deputations with requests frequently appear before the Council.

The minutes of the Council meetings, which are now published in English and Egba in the *Egba Administration Bulletin,* are full of interest. Here the reader will find the struggle between the conservatives, represented by the Ogboni chiefs, and the friends of progress, represented by the Balogun of the Christians, and the Alake himself who has a European education. Thus a deputation of the Ogboni chiefs protested against the Alake going to Oyo to attend a Baraza for the Prince of Wales on the ground that it was contrary to tradition that the Alake should leave his kingdom.[18] The Alake, however, overruled the objection. Despite his European education, the Alake realizes the importance of maintaining his traditional dignity. This was illustrated in 1925 when one of the Obas refused to obey his instructions. After the Oba repeatedly jibed at the Alake during discussion of the case at the Council, the Alake finally declared, "A halt must be called. Such a thing as the conduct of the Osile

selves behind others. . . . Honest criticism in Council is healthy, dishonest criticism from afar is the work of men not to be trusted." *Ibid.,* April 16, 1926, p. 42.

[18] In April, 1926, a delegation of Ogboni chiefs appeared before the Council, and said, "We now come to you with a view to assist us in the preservation of the Ogboni cult which is as old as the country." *Ibid.,* June 15, 1926, p. 73.

Suberu Adedamolo cannot be tolerated from day to day. I have my dignity to keep as the Alake and head of this administration. Personally insult is nothing, but an insult offered to the Alake in the most shameful and open way by an Oba is quite a different thing. It is most unbearable conduct—you will excuse me." Then, according to the Minutes, the Alake left the Council in vexation. The Osile was later deposed.

The Council has certain judicial duties to perform, particularly in regard to the settlement of land cases and political difficulties between the Obas, minor chiefs, and the Alake. It passes a large number of resolutions on internal matters without obtaining the prior approval of the Resident. Under the Native Authority Ordinance it has made rules regarding the Refund of Dowry, when a woman divorces her husband—the maximum being fixed at fifty pounds. It has also fixed the maximum damages which a husband may recover from a person committing adultery with his wife. In 1926 the Alake and Council made rules declaring that no person should display goods for sale on the roads, and it has enacted rules requiring licenses for canoes.[19]

Thus the native government has exercised a type of legislative power. Its administrative activities are even more interesting. The Native Treasury has an annual revenue of about 40,000 pounds, about 15,000 pounds of which come from one-half of the native poll taxes. In 1925 a system of tax collection was adopted in the town of Abeokuta under which the heads of each compound were made responsible to the head of each ward for collection, and the four ward heads were made responsible to the Alake. Each compound head gets five per cent of the taxes, while for some strange reason another five per cent goes to the still powerful Ogboni Society. The Obas or ward heads are on a salary. In the country, collections are less satisfactory, owing to the absence of district heads. Village Bales pay the money directly to a representative of the Alake assisted by tribute collectors. In theory an income tax is imposed.

Native funds are expended in accordance with the Native Administration Estimates. These Estimates are first drafted by the European officer, the Alake, and the Native Treasurer. They are then submitted to a Financial Advisory Board composed of the Treasurer, the Chief Assessment Officer (a European), the Alake, and from six to eight native traders; following which they are presented to the Alake's Council. After approval by the Resident, they go to the Lagos government.

In July, 1924, the British government granted to the Egba government what the natives call "autonomy." Thenceforth the British officials no longer occupied themselves with the details of the native administration, but

[19] *Egba Administration Bulletin*, February 16, 1926, and March 16, 1926.

imposed full responsibility for its affairs upon the Alake and the people under him. In some respects the government resembles that established under the Emir Feisal of Irak. The Native Treasurer of the Egba government, it appears, has more freedom than any other native treasurer in Nigeria. He may expend sums, authorized by the Estimates, without any counter signature of a British official, and subject only to inspection and audit, to which any treasurer is subject. The Treasurer pays the Crown Agents in London for materials, indents for which are made out by the political officer.

As in other treasuries, about half of the Egba revenues go to salaries and administrative expenditures. The old Egba government pensioned its officials freely; but in view of the expense and the fact that natives living at home are not in need of regular pensions, the British authorities have advised the Egba government in the future to grant only gratuities to retiring officials. An attempt is being made to build up a native administration civil service, but it is experiencing difficulty in getting the better type of native clerk in view of the fact that they can receive higher salaries working in the British administration. For example, the Native Treasurer, who handles 40,000 pounds a year, receives a salary of only 260 pounds (1925-1926), which is less than that of a native clerk working for the British government. It appears that if the best native brains are to go into native administration work, salaries will have to be equalized.

Alone of the native states of Nigeria, the Egba native administration operates a waterworks and electric light establishment created, it is true, by the old Egba government. It also has a fully equipped machine shop; while it maintains not only the smaller but some of the trunk roads, for which the British government pays it 700 pounds a year. In order to supervise this work, which requires a high degree of engineering skill, two European engineers seconded from the British Departments, have been employed. Subject to their general oversight, an African is in complete charge of the pumps and purifying plant which takes the water out of the Ogun River, and another native directs the government printing plant where, among other things, the *Egba Administration Bulletin* is printed. It contains such items as Movements of Officers, Report of the Survey Department; Sanitary Inspection Report and Mosquito Index Return; Report of the Administration of Public Works; Prison Statistics and a monthly abstract of Receipts and Expenditures.[20]

In some respects the Egba government is the most successful native administration in Nigeria. Its example disproves the statement that only

[20] *Egba Administration Bulletin*, February 16, 1926.

Mohammedan peoples are fit for indirect rule, since the Egbas, originally pagan, have been under the influence of Christianity for a long time.[21]

4. *The Eastern Provinces*

Except for three instances in the Benin provinces, no native treasuries have as yet (1926) been established in the Eastern Provinces of Nigeria. As we have seen, before the World War the government did establish Mixed Courts, presided over by European officers—a development of the consular system. No attention was paid to the tribal organization, because British officials believed that the Ibo people who inhabited much of this territory had no social organization outside of villages independent of each other.

Because of the World War, the European personnel was reduced to such an extent that no careful studies as to the traditional rulers of the people could be made. Nevertheless, with the adoption of the Native Courts Ordinance in 1914, the old Mixed Tribunals were swept away and purely native courts instituted in their place.

But the government created native court areas without regard to tribal lines and appointed "warrant" chiefs as judges who in many cases were former slaves and who could command none of the respect given by the people to their chiefs. The only official who sat permanently on the court was a semi-literate clerk imported from Lagos to keep the records in English. In many cases these clerks came to dominate the tribunal. "He issues every summons without reference to any chief, gives orders for arrests, controls the Court Messengers, takes charge of prisoners and conveys to the warrant chiefs instructions sent from the Divisional Officer. It is not surprising that in many cases it is the custom for the warrant chiefs to address the clerk as 'master.' "[22] As a result of this system, it appears that only the semi-educated and detribalized natives resort to the native courts which, in the opinion of the Secretary for Native Affairs, "have become one of the principal disintegrating forces in the country and in their present condition are, in the opinion of the majority of officers, very corrupt and doing a great deal of harm." Complaints against the system

[21] Oyo and Ibadan are also pagan, subject to Christian influence and education. The Mohammedans outnumber the Christians, however, in both Oyo and Abeokuta provinces. There are about 26,000 Christians in Abeokuta province and 66,736 Moslems. There are 48,000 Christians in Oyo and 135,534 Moslems.

[22] *Report on the Eastern Provinces by the Secretary for Native Affairs,* 1922, p. 5. On the other hand, the Assistant Secretary of Native Affairs who made a later investigation believed these statements were exaggerated. *Report by the Assistant Secretary for Native Affairs,* 1923.

from the natives are universal, except in the few cases where real hereditary chiefs have been appointed judges. Living under their natural rulers, the communities are peaceful and satisfied.

Further study by Nigerian officials and others has revealed the fact that at one time there existed among most of the Ibos a clan organization of councils. While the artificial system of warrant chiefs, which the Government introduced, has gone far in destroying the remnants of this organization, the British government is now endeavoring to reorganize native court areas and judges to conform to this traditional framework.

Except in the three cases where native treasuries exist, no direct taxation is imposed upon the peoples of the Eastern Provinces. This fact led many political officers to increase the burden of free labor which they could require under the Roads and River Ordinance,[23] as the result of which certain abuses were committed. "The system of maintenance is to patrol these roads by a number of uniformed overseers who appear to have the right to call out what labor they like, when they like, and employ it as they like.

"It did not surprise me to see Ibibios cultivating a farm in front of a road overseers' house, and it is quite obvious that such a system gives an unscrupulous overseer endless opportunities for blackmail. Now wherever I have been along these roads all the labor I have seen has belonged to the farming or producing class. The semi-educated youth may do his share but if so he was singularly inconspicuous among the gangs I saw. . . . Our present system is in fact throwing an ever-increasing burden of work on the farmer, particularly during the period when his absence from his farm entails considerable pecuniary loss. The overseer without reference to the political officer obtains this labor from the warrant chief, not the hereditary chief, and it can safely be assumed that the warrant chief does not call out his own friends. If the men demanded do not come, the overseer proceeds to the Native Court and takes out a criminal summons against any individual whom the warrant chief informs him he has detailed for work. This individual is then fined. Any comment on such a system is superfluous." [24]

These conditions in the Eastern Provinces reinforce the criticism elsewhere directed against this system of compulsory and unpaid labor.[25]

[23] Cf. Vol. I, p. 657.

[24] *Report on the Eastern Provinces by the Secretary for Native Affairs, cited,* p. 13.

[25] Cf. Vol. I, p. 648.

CHAPTER 43

CONCLUSIONS AS TO INDIRECT RULE

In this system of indirect rule, Nigeria has made a contribution of far-reaching importance to the government of primitive peoples. The framework upon which the edifice is reared is traditional, and not artificial. It is a framework developed in a native and not a European milieu. While the British government naturally prefers educated to illiterate chiefs, an educated commoner can not, under this system, become a chief. The administration never recognizes a Native Council unless it is a council which the natives themselves create. It is a system which, differing vitally from the system followed in the Transkei, Kenya, and the French colonies, rests upon the doctrine of self-determination and the philosophy of free-will. As the government has officially declared, "The belief which underlies this policy is that every system of government, if it is to be permanent and progressive, must have its roots in the framework of indigenous society." [1]

1. *Its Aims*

Indirect rule does not aim at maintaining native institutions in an unbending cast. Its authors realize that with the onrush of European ideas and European industrialism, change is inevitable and in fact desirable.[2] "European standards and methods must be introduced in the form and measure in which they can profitably be grafted on to the pre-existing stock." [3] But this preexisting stock must not be destroyed. The authors of indirect rule believe that if the traditional group life of the native disappears without a new group life being put in its place, the continent of Africa will disintegrate.

[1] *Report, British Cameroons,* 1924, para. 214.

[2] Probably the greatest shock which the Emirs of Nigeria have received came in the form of a visit of aeroplanes which flew across Nigeria in 1925 from Cairo. The airmen had a long interview with the Emir of Kano, and the *Gazette,* in reporting the incident, said: "The Emir showed at first an attitude of somewhat embarrassed awe. He could hardly grasp the idea of a journey in the air from Cairo to Kano in six days." Four of the Emirs consented to take an aeroplane ride, and, as the *Gazette* said: "The general impression was that nothing could now be impossible to Europeans." In the opinion of the Resident, the visit of the aeroplanes was the "most sensational event that has occurred in Kano in our time." *Gazette,* 1926, p. 10.

[3] *Report, British Cameroons, cited,* para. 217.

Governments everywhere depend for their existence partly on force but primarily upon the tacit consent of a large body of their subjects. In the long run, no autocracy can endure to which public opinion is vigorously opposed. In Africa, the same rule holds true to a greater degree, perhaps, than elsewhere. If European governments destroy, directly or indirectly, the powers of traditional rulers, they will have wiped out the only voluntary basis upon which Africa can be administered. A European official is now obeyed not because he symbolizes what the native respects as law, but because he is a white man with force at his back.[4]

Africa is so vast that it is an administrative impossibility to substitute European officials for native chiefs.[5] Whether under direct or indirect rule, European officials are obliged to rely upon native subordinates and aids. These aids may be traditional rulers, or they may be educated clerks. Nigeria has tried both. The educated classes attempted to direct the United Egba native government before 1914; and educated clerks since then have virtually controlled the native courts of the eastern provinces. In many of these cases, the educated natives showed that they had lost all sympathy for the group out of which they came and that they had no compunction in abusing their power for personal ends. In all of these cases, the educated class failed to command the respect of the masses of the people.

Further examples may be found in the cases of the late Bishop Crowther and Henry Carr, both of whom were given positions of authority unknown to native law and custom. Bishop Crowther was originally a slave boy who, in a remarkable career, became, in 1864, the first African bishop in the Anglican church in West Africa. According to universal testimony, he was a man of saintly character and of great intelligence, but he could not enforce discipline over the other African clergy under his charge. In 1891, a committee from the Church Missionary Society, after investigating the state of affairs in his diocese, reported that "the moral and spiritual condition of the congregations generally has in it at the present time much that is extremely lamentable, and the prevailing ignorance of Divine truth and the low state of discipline are such as to call for serious consideration respecting the character and efficiency of the agency now at work.

"In making this painful statement, the Sub-Committee have no desire

[4] Cf. C. L. Temple, *Native Races and Their Rulers,* Cape Town, 1918, Chap. VI, on The Anatomy of Lying.

[5] If such a government were possible, it "might be humane, incorruptible, and efficient. It would also be alien, exotic, and impracticably expensive." *Report on the British Cameroons, cited,* para. 215.

to repudiate or minimize any share of the responsibility which may attach to the Committee, and it is but just to the Bishop to say that from the commencement of the Mission most serious difficulties have beset him and surrounded every station."[6] Since the death of Bishop Crowther, the Church has appointed a European bishop at the head of each diocese, assisted by an African suffragan bishop.

A graduate of Fourah Bay College, Mr. Henry Carr entered the government civil service in 1889; a few years later, he was appointed Inspector of Schools, and for a time was Assistant Secretary of Native Affairs. He later returned to the educational service, and from time to time served as Acting Director of Education until 1918, when he was made Resident of the Colony of Lagos. As such, he became responsible for the government of several hundred thousand natives, including the educated group. Mr. Carr has an impeccable character, and in intelligence and ability as an administrator he equals many Europeans who have occupied similar positions. Nevertheless, his career as Resident was marred by a bitterness of native feeling which is seldom expressed toward a European official. In 1917, a number of White Cap Chiefs wrote the governor that "Mr. Carr, though a native of Lagos, is popularly known to have imbibed foreign or western ideas and modes of thinking and action. Native Custom is therefore foreign to him as to any European or American." He was also the object of the most bitter attacks from the educated Africans who accused him of being guilty of "political immorality and incurable moral injustice," and who declared that his career "shall forever be branded with the indelible marks of public disgust and hatred."[7] Many of these attacks arose out of the treatment accorded the Eleko over the Staff incident by Mr. Carr who was then Resident. Needless to say, these personal attacks were undeserved, but they would have been forthcoming against any African in Mr. Carr's position, no matter what he had or had not done.

Such experiences have prompted the Nigerian government to refrain from further experiments of this nature. The experience of the Gold Coast and Sierra Leone has been the same.[8] Whatever may be the case in the future, the educated group among the Africans is to-day so far removed from the masses that the members of this group have perhaps

[6] Eugene Stock, *History of the Church Missionary Society*, London, 1899, Vol. III, p. 393. The criticism of Bishop Crowther led to the establishment of the United African Church. Cf. Vol. I, p. 745.

[7] Cf. a brochure, *Henry Carr must go!* by Herbert Macaulay, Lagos, 1924, p. 10.

[8] Cf. Vol. I, p. 864.

more difficulty in understanding the needs of the masses than do Europeans, while the masses do not regard the educated group as any better than themselves.

When rulers do not command respect, they can rule only with the aid of force—which is usually the case with native subordinates under the system of direct administration. It is significant that under this system, which prevails in the French colonies and elsewhere, greater abuses are evident than in territories applying indirect rule.[9]

Furthermore, the maintenance of the tribal group and tribal institutions is necessary for the maintenance of native law—an amazingly intricate but in most cases sensible system which controls practically every aspect of native conduct. While the superstitious and inhumane sanctions of native law will inevitably disappear, the mere existence of native institutions—particularly native courts with traditional judges bred in the law—will uphold these bonds which unite the natives into a social whole. Cut these bonds and the native becomes an anarchist, knowing no law except the law of fear. Destroy these institutions, and you wipe out the powerful restraint which public opinion imposes upon personal conduct in any well-ordered community in the world. If the continent of Africa is to be saved from anarchy, these bonds must not be cut, but rather annealed.

A former Nigerian official writes, "But even more important than the loss of any material influence of the European over the native mind is the fact that once the native institutions are overthrown; once the Native Chief or Emir, with his picturesque surroundings, his gaily caparisoned, or even gaudily dressed cortege, so dear to the native eye, and which appeals so strongly to his reason and judgment as to what is right and proper, disappear, and are replaced by the, to him, uninspiring formalities and repulsively cold and precise methods of direct European rule—once the dignified circumlocution, which in his eyes it is meet and proper should accompany all important transactions, gives place to the brief and dried formulas of British official practice, and above all once the truth dawns upon him that it lies well within his power, if he do but exert a little of the ingenuity with which nature has gifted him, to throw dust in the eyes of this once mysterious but really quite insignificant and impotent stranger sitting aloft on a pinnacle above him; to bribe, league with, intrigue with, such of his interpreters, political agents and police as are dishonest; to concoct successfully false accusations, to intimidate and even to poison such as are honest, and to misbehave generally under the white man's rule, in a way that he would

[9] Cf. Vol. I. p. 986, Vol. II, p. 344.

never have dared to do under his own institutions, then indeed does a dry-rot set in—discipline goes to the wall *vis-à-vis* the higher powers."

From the narrower standpoint of political science, the Nigeria policy aims to avoid the mistakes of colonial policy in Egypt, India, and the Philippines, which has given the natives parliaments, and has taught them how to criticize European officials, but which has not taught them how to administer themselves. The result has inevitably been a series of deadlocks.

Moreover, such a system of "representative" government sets up a false standard. It is much more of a job to be a cabinet minister than to be a spell-binder in the House of Commons. The art of self-government consists in much more than speech-making. Its fundamental task is the adjustment of individual and group relations and the collection and expenditure of money for the good of the government or of the groups which the government represents. It is much more important to learn how to perform this work, which is of a judicial and an administrative nature, than to "perform" in a legislative body which merely expresses an opinion about how these tasks should be carried out. It is much more important to learn how to do a job than to learn how to criticize someone else for doing it. Under a parliamentary government, the purpose of a legislative body is to expose and remove abuses. But in Nigeria, this watch-dog duty is performed in a general way by the European official who, however, makes the native chiefs fully responsible for administering their subjects, instead of giving them, as is done in the Transkei, seats on native councils where they may criticize the European administration of the community.

As has been seen, some corruption exists under this system; but it exists in most European and American governments to-day; and it may be found among native subordinates in African colonies under direct administration. In the long run, it can better be removed by the protests of the people than by the establishment of direct rule.

These abuses will gradually be removed, not only by the European official but also by the tribal councils, which, as in the case of the Alake's Council in Egbaland, will become more and more democratic with the progress of time. These Councils will not direct their criticisms primarily against the activities of European officials, as is usually the case with the type of council established in Kenya, South Africa, and the French

[10.11] "As a natural corollary, the discipline of the children *vis-à-vis* their parents, the bed-rock of all African well-being, disappears also. This disappearance of the power of the head of the household over its members is a well-established, well-recognized incontrovertible fact, deplored by Africans even more than by Europeans, in all those districts where the native administrations have been swept away." C. L. Temple, *cited,* pp. 73, 74.

colonies, and which sooner or later inevitably acquires a racial bent, but against native rulers. It is possible to conceive of the time when these rulers will, through their ministers, be as responsible to tribal councils as are cabinets to European parliaments to-day.

Direct rule means a European autocracy having no other goal than the indefinite maintenance of its power. It has no idea where it is going. Sooner or later in history, the direct rule of an autocrat has been smashed by the people under it; but while these subjects become strong enough to destroy their master, they usually have not acquired, because of the autocratic policy of direct rule, the knowledge and experience necessary to govern themselves. The result is chronic distress.

Indirect rule means immediate self-government in local affairs through native institutions, constantly being strengthened by the accretion of new political experience derived from contact with the western world, and subject only to European supervision, which becomes less and less as these institutions prove more and more able to stand on their own feet. As the Cameroons Administration has said, "If the ultimate object, however remote, of the government of backward races is to raise them to a state of civilisation in which they can stand alone, it is evident that they must be provided with a governmental machine with the control of which they themselves can be associated in an ever-increasing degree. If the machine is capable of being manipulated only by foreign hands, the withdrawal of outside assistance will speedily bring it to a standstill." [12]

If indirect rule is really to succeed, traditional chiefs cannot remain illiterate leaders of conservatism. In order to command the respect of their educated commoners, they, too, must receive an education. For many years, compulsory education in Africa will be impracticable, and some choice in the selection of students for schools must therefore be made. In Tanganyika and Sierra Leone, the British are making a special effort to educate the sons of chiefs before educating the sons of commoners. But in southern Nigeria, at least, the government has declared that the establishment of compulsory education for chiefs' sons would be a piece of "class legislation" which it could not permit.[13] This objection, which seems to rest on the proposition that all men are born free and equal, overlooks the great social importance of the chieftainship to the native community. The establishment of a school for the sons of Emirs and also of Yoruba chiefs is worthy of serious consideration.[14]

[12] *Report, the British Cameroons, cited,* para. 216.

[13] *Legislative Council Debates,* first session, 1923, p. 37.

[14] In northern Nigeria, the government is already making an effort to secure the sons of Emirs as students in government schools. In his *Political Memoranda,* (pp. 131, 315) Sir Frederick Lugard wrote that an educational system should

If the time comes when the three hundred and sixty-two [15] native authorities of northern and southern Nigeria become able to govern themselves in local affairs, the problem of unification will then arise. In the old days, tribal amalgamations were usually the product of war, which the European occupation forestalls. Nevertheless, a racial consciousness is coming into existence in many parts of Africa, and along the West Coast the demand for a Gold Coast nation and a united dominion of West Africa is frequently heard. The reunion of tribes or races, divided for hundreds of years into dozens of chieftainships, is also occasionally discussed. How is the policy of indirect rule to cope with this demand which will inevitably grow stronger with the passage of time? The first step should be the establishment of periodic councils of chiefs belonging to the same race—such as the Emirs of the northern provinces, and the Yoruba chiefs of the south. At first, these conferences would be merely centers of discussion. Later on, these bodies could be invested with the power to make laws in matters affecting more than one community, and they might be given a budget of their own. Eventually, these councils might elect a president or a paramount chief. By means of such methods, tribal fragments might gradually be reunited into a "national" whole. These councils would thus partake of the nature of the Transkei and French Councils, but they would be organized on a "racial" basis, and they would merely cope the edifice of native self-government which so far does not exist in the territories under the "French" system.

2. *Abuses of Indirect Rule*

There are certain abuses or questionable practices involved in this indirect rule apart from the corruption of native officials. The funds of the native administration are now occasionally employed for other than purely native purposes. Thus many native treasury budgets carry the cost of constructing and maintaining rest houses which are used only by European travellers. Some native treasuries buy automobiles for the Paramount Chief which, in some cases, are employed by European administrators. Because of the fact that the Public Works Department is overburdened with work, the native administration at Ibadan is building several beautiful residences for the European engineers which it employs. While the British government will reimburse the native administration for this work,

"produce a new generation of native chiefs of higher integrity, a truer sense of justice, and appreciation of responsibility for the welfare of the community. . . . Even the existing generation has proved wonderfully adaptable, and when one considers the methods to which they were accustomed in their youths, the progress made reflects the greatest possible credit alike upon them, and upon the unceasing efforts and devoted ability of the British staff."

[15] Cf. Vol. I, p. 688.

the use of so-called "political labor" and the whole native machinery for this purpose is questionable. Following the Iseyn rebellion of 1916, the Alafin obliged the people of the town to build him a magnificant Manor House on the top of a neighboring hill. The Alafin, however, has used this house only two or three days since its erection. The remainder of the time it is occupied, when occupied at all, by the British Resident and his friends.

To carry on the different activities of the native administration, so-called "political labor" is used. While this labor is paid, in some native administrations the wages are below the market rate. Thus at Ibadan, while the agricultural department and the railway are obliged to pay a shilling a day for labor, the native administration, employing "political labor," pays only six pence and nine pence a day. "Political labor" is usually compulsory in the sense that when a job needs to be done, the engineer in charge estimates the number of laborers required and informs the Chief, who assigns contingents to each district head. Each village then sends in its quota. Usually the laborers stay a week and return home.

Since this work is performed near home, is for a public purpose, and of a character with which African peoples have long been familiar, it may be in principle justified. But so long as the labor is not compensated at the market rate, it is a kind of labor tax which does not, moreover, fall equally upon the population, since no check is kept on the amount of labor furnished by each man.[16] It should be pointed out, moreover, that in many parts of Nigeria there is as yet no "market rate" of labor.

Likewise the employment of native treasury funds for purposes which hitherto have been supported out of general revenue may impose an undue burden on native resources. Several treasuries are already sorely taxed by the salaries of several European officials. One member of the Legislative Council has pointed out that while in Lagos the British government assumed the whole expense of the water works, in Kano the expense of a similar project was borne by the native treasury.[17] The policy in northern Nigeria is to impose the cost of ordinary school equipment and the salaries of native teachers upon native treasuries. This policy is not, however, followed in the south. The result is that the northern treasuries are obliged to carry a burden which is not only discriminatory, but which may retard the development of education in comparison with that of the south where responsibility for this burden is placed on the missions and the British government. If the taxes remitted to the native treasury

[16] The method by which the Uganda government has regularized this work is discussed in Vol. I, p. 584.

[17] *Legislative Council Debates,* first session, 1923, p. 94.

could be increased in proportion to the assumption of these new burdens, these differences would become a mere matter of bookkeeping. But so far, no attention has been paid to these differences in expenditure.

3. *Future Development*

Neither should one minimize the difficulties of extending, in the future, the power of the native authorities. While the native states have with remarkable skill already woven into their administrative system the intricate devices of European administration in connection with finance and police, they experience greater difficulty in performing duties such as the construction of public works and the improvement of public health and agriculture, all of which require some applied knowledge of European science. Now while the schools of Africa have given a few natives a literary education—equivalent, in most cases, only to the first few years in a European elementary school—few institutions have given the natives any scientific or technical training. To overcome this difficulty, the Nigerian government [18] has adopted the policy of loaning European departmental officers to the native administration, under whose direction the native administration may construct public works and operate schools and hospitals. The same tendency is taking place in regard to the enforcement of certain police regulations. For example, if a native refuses to burn his cotton stalks, or if he illegally cuts down trees in a forest reserve, he is arrested by a Dogari and punished by a native tribunal, instead of being arrested by a policeman responsible to a British magistrate.

Probably the most important question confronting the system of indirect rule in Nigeria to-day is how far the development of native authority should go—to what extent should the native authority, aided by European officials, take over activities hitherto performed by departments in the European government, supported by British police.[19]

If further duties should be transferred to the native administrations, it would mean that doctors would be maintained by a native treasury instead of by the Department of Public Health at Lagos. Local agricultural officers and engineers would similarly serve the native state. In such a case, they would be theoretically employed by the native community, and they would be responsible to the Resident of the province having general control of the native state in question. Such a system would reduce the duties of the government departments at Lagos to the conduct of inter-provincial matters and to general supervisory control. If

[18] And the Transkei. Cf. Vol. I, p. 96.

[19] While the ordinary policeman is a native, he is responsible to a British commandant or chief.

such a system should develop, the native treasuries would probably eventually receive three-fourths or the whole of the direct native taxes, while the general government would support itself from the customs.

Development along these lines is now being vigorously opposed by the departmental heads of the Nigerian government. They complain that the efficiency of their work has already been impaired by the necessity of following the wishes of the native authorities, and that the employment of European experts by natives is damaging to European prestige.[20] They particularly object to the decentralization of departmental activity which this plan would involve. If a doctor, for example, were anchored to a native state subject to the control of the Resident of the province, the Medical Department at Lagos could not move him from one end of the territory to another for the purpose of combatting epidemics which know no boundary lines.

In reply, political officials state that if the native states are really to become self-governing, they must learn how to conduct every type of administrative activity, and not merely how to administer justice and maintain order. They believe that the departments defeat their own ends by constantly shifting their personnel from one end of the territory to another, and by ignoring the wishes or the susceptibilities of the natives. The fact that medical missionaries remain at a single hospital while government doctors are frequently transferred partly accounts for the relatively greater success of the former with the natives. Experience has shown that natives will obey regulations safeguarding a forest reserve when they feel it is their own, much more willingly than when the reserve is imposed upon them by the European government.[21] Moreover, European officers seconded to the native administration have not regarded themselves as "employees" but rather as advisors to the native authority; and some of them prefer working with the native authorities than with the government proper.

Whether or not this system of imposing full administrative responsibility upon the native authority will succeed depends upon two factors: first, the quality of the departmental officer, and second, the development of technical education among the natives.

An engineer assigned to a native administration must not only perform the duties which he performed as an official of the British Department of Public Works, but he also must teach natives how to perform these duties themselves. He must not only be an engineer, but an educator and a

[20] This was the argument of Lieutenant-Governor Temple in *Native Races and Their Rulers, cited,* p. 77.

[21] Cf. Vol. I, p. 759.

diplomat. This means that he must have a vision of a native community which, partly as a result of his efforts, will eventually be self-governing; and he must have an unlimited amount of patience and of sympathy with the realization of this ideal. Many of the departmental officers assigned to native authorities in the past have had this vision. But whether enough of them can be interested in this social—as distinct from the technical—aspect of the question, remains to be seen. A departmental officer lacking such vision and bringing to his work preconceived European standards will simply do the job himself in the name of the native authority; in such a case, the only difference between indirect and direct rule is a difference in name.

But natives will not learn how to perform these tasks merely by using tools. Sooner or later, if they are to succeed with this work, they must acquire a knowledge, elementary though it may be, of the principles upon which modern machinery and medicine and other apparatus of the western world are based. In other words, they must be given a scientific and a technical education.[22]

The sudden transfer to the native administration of departmental duties would probably submerge a native state, most of the members of which do not have such an education. Obviously, there is a danger of going too fast. The rate of speed will depend upon the progress of education in Nigeria, a subject which will now be briefly discussed.

[22] Cf. Chapter 44.

CHAPTER 44

EDUCATION AND MISSIONS

1. *In the Southern Provinces*

In southern Nigeria as elsewhere in British Africa, education has been left mostly to the missionary organizations which have established village schools, under village teachers, primarily with a view to training natives in the principles of the Christian religion. The various societies have also maintained central training schools for African teachers and clergymen, of which St. Andrews Training College at Oyo—a Church Missionary Society institution—is a notable example. At Calabar, the Scottish Mission also maintains an industrial school of high order, the Hope-Waddell Training Institution. The Roman Catholics, represented by the Lyons Fathers, conduct important educational activities.

For its part, the British government has established a number of government schools, including King's College which is a secondary school at Lagos. But the government has been willing to leave the bulk of primary education to the missionary bodies, which it has assisted by grants-in-aid. Such schools are called "assisted" schools. An Education Code[1] prescribes the subjects to be taught by such schools. The determination as to whether or not a school should be given a grant is based upon the report of a government inspector. In computing the standard of efficiency, the inspector is guided by the ratio of instructors to pupils, the manners and cleanliness of the pupils, the results of examination, and the adequacy of the school plant. These inspectors have been frequently criticized as being unfair. To any infant school satisfying the qualifications, a grant of six, eight, or twelve shillings for each unit of average attendance over the age of four years is paid; in the primary schools, the grants range from fifteen to thirty shillings; and in secondary schools, from thirty shillings to three pounds. Likewise, the government makes similar grants to the salaries of native teachers.[2]

In 1927, the government appropriated 134,000 pounds for education, of which about 52,000 pounds went to the employment of teachers and inspectors.

[1] Chap. 65, *Laws.*

[2] *Laws,* Vol. III, p. 456.

2. *In the North*

An opposite educational policy has been followed in northern Nigeria where education has been, except for pagan areas, entirely in government hands.[3] In 1909, the northern Nigerian government first appointed Education Officers who gradually opened a number of schools throughout the different provinces. In view of the traditional hostility of Moslem rulers to western education, the government has scrupulously respected the religion and the language of the Emirs. Instruction in these schools is at first in the vernacular and later in Hausa and Arabic. English is also taught. Moslem "mallams" approved by the Emirs may enter the schools and teach the Mohammedan religion. The courses and the textbooks in these provincial schools have been prepared with the purpose of adapting knowledge to the needs and environment of the people. The government has also established a number of Arts and Crafts schools where carpenters, blacksmiths, brass workers, leather workers, embroiderers, ox-cart drivers, masons, and grass workers are being trained. These schools thus give some of the elements of a technical education, which the native administrations so urgently require. For the purpose of training teachers, the government has established a Training College at Katsina, where a five year course is given in literary and practical subjects, including English, Arabic, Hausa, algebra, and geometry—taught in a manner related to native life. For example, idiomatic English is translated into Hausa and vice-versa. In the history work, stories of primitive peoples in other parts of the world are told with the object of arousing curiosity as to the effect of physical conditions upon man's existence. After studying geographic features and history of Nigeria the students turn to a study of the early civilizations in Asia, Egypt, Greece and Rome, of the Moslem conquests in North Africa and Spain, and of the medieval native states of the Sudan.

The government for northern Nigeria expends about 44,000 pounds a year on education compared with 134,000 pounds expended in southern Nigeria. But, as we have seen, the native treasuries assume the salaries of native teachers and the expense of maintaining ordinary school buildings. For these purposes, they expend about 34,500 pounds a year. At present, about 271 native teachers are employed in northern Nigeria, together with about forty European principals and inspectors.

Despite the high quality of government education, its effect upon the

[3] In pagan as well as modern areas, a missionary society must obtain a permit from the Governor before opening a school. The Governor may attach to such permit such conditions as he may think fit, and he may withdraw the permit if any of the conditions are broken. Mission Schools (Northern Provinces) Ordinance. Chap. 66, *Laws*.

population of the north has been scarcely appreciable, since the total average attendance of the fifty-two government schools is less than two thousand.[4]

3. *A Comparison*

The educational contrast between northern and southern Nigeria may be seen from the table on the following page.

According to these figures, between thirty and forty times the number of native children attend school (excluding the Koranic schools) in southern as in northern Nigeria. This difference is due largely to the fact that while in the northern provinces Christian missionary work is prohibited except in pagan areas, in the south it is encouraged.

On the other hand, the quality of educational work in the north has been much superior to that of the south. As the table shows, the government of southern Nigeria assists less than 200 mission schools. The remaining 2,700 have so far escaped all government control. Manned by native teachers with little education and subject to less supervision from European missionaries, these "bush" schools have imparted an education which has lacked thoroughness, and which has been exclusively "literary." Instead of the native language, English has been the universal medium of instruction in the South. Instead of teaching the natives the fascinating history of Nigeria, some schools have taught them the history of Elizabethan England.

In many cases, a native will stay in a school only a year or two—long enough to acquire a scrappy English vocabulary—when he feels that his education is complete enough to qualify him for the position of clerk in a European firm—a position the attainment of which has become his only goal. The Governor in 1920 deplored "the mushroom-growth of 'hedge schools' in the majority of which young men who are incapable of grappling successfully with the mysteries of the Fourth Standard profess to impart 'education' to large groups of boys. . . . Throughout the southern provinces [there is] an abundance of schools but very little genuine education; . . . the children are themselves curiously eager to attend school, but are much less willing to remain there long enough to acquire any real and useful knowledge; . . . too many of them, no matter how imperfectly educated they may be, thereafter regard themselves as superior to agricultural pursuits, and prefer to pick up a precarious and demoralizing living by writing more or less unintelligible letters for persons whose ignorance is even deeper than their own."[5]

[4] *Annual Report of the Education Department, Northern Provinces,* 1925, p. 14.
[5] *Nigerian Council, Address by the Governor,* 1920, p. 198.

Education in Nigeria[1]

	Government Schools		Aided private schools		Other private schools		Total of Average attendance	Estimated school population[3]	Percentage of school population
	No.	Average attendance	No.	Average attendance	No.	Average Attendance			
Northern	50	1,816	2	139	27,113[2]	2,407	4,609[4]	2,060,000	.224
Nigeria		2,063				335,208[2]			
Southern	43								
Nigeria		6,674	188	27,582	2,705	77,812	112,068	1,630,000	6.880

[1] *Blue Book, Nigeria,* 1924, pp. 282, 288.
[2] This figure includes the Koran schools. Their education value is usually considered as negligible.
[3] We have followed the Tanganyika Estimates, which consider that one-fifth of the total population is of school age.
[4] Exclusive of Koran schools.

In order to improve this situation, the government adopted a new Education Ordinance in 1926, and also appointed an Advisory Committee on Education, composed of officials, missionaries, and educators, which is now working out new syllabi designed to establish an educational system of greater thoroughness and better adapted to the needs of Nigeria than the present system. The new educational program is in main based on the principles laid down by the Advisory Committee on Education in Africa at London,[6] which has declared that the aim of education in Africa should be "to render the individual more efficient in his or her condition of life, whatever it be, and to promote the advancement of the community as a whole through the improvement of agriculture, the development of native industries, the improvement of health, the training of the people in the management of their own affairs, and the inculcation of true ideals of citizenship and service. It must include the raising up of capable, trustworthy, public-spirited leaders of the people, belonging to their own race. Education thus defined will narrow the hiatus between the educated class and the rest of the community, whether chiefs or peasantry." This aim should include the use of the vernacular and the teaching of spiritual ideals.

By means of increased grants-in-aid and more thorough inspection, the government hopes to assist the missionary societies to improve the quality of instruction in village schools and to make it impossible for independent schools failing to come up to a certain standard to exist.

In this movement, the feelings of the Africans have been divided. While many natives are enthusiastic about education, many of them are more interested in quantity than in quality. In the first campaign for the Nigerian Legislative Council, the three successful Lagos candidates promised their constituents to work for the adoption of compulsory education throughout the country, which the Governor estimated would require an African teaching staff of forty-four thousand men and an annual expenditure of 2,500,000 pounds, nearly half the revenue of the country.[7]

Moreover, many Africans look upon any attempt to give them a system of education which differs from that given Europeans with suspicion—as an attempt to hold them in a kind of intellectual serfdom. Thus, when it became known that the Advisory Committee on Education in London had recommended the use of the vernacular instead of English (but only in the early standards), educated Africans in southern Nigeria at once

[6] The full text of its notable memorandum on "Educational Policy in British Tropical Africa," is printed in an appendix. Vol. II, p. 889.

[7] *Legislative Council, Address by the Governor,* 1924, p. 71.

raised an outcry.[8] The justice of this complaint is discussed in connection with the Gold Coast.[9]

Whatever the defects of education in southern Nigeria have been, the educational efforts of the missions have aroused an intellectual activity and created an imagination among the Africans which is noticeably absent in the north, and which is leading the educated Yoruba to enter the northern province and to compete with the local Hausa trader. In 1920, the Governor declared that the "Northern Provinces have not yet produced a single native of these provinces who is sufficiently educated to enable him to fill the most minor clerical post in the office of any government department." [10] These offices are manned from natives from the Gold Coast, Sierra Leone and from the southern provinces of Nigeria. Sooner or later, the northern provinces will have to put forth much greater efforts than at present if they are to maintain their independence against these southern invaders.

This state of affairs in the north is due largely to the exclusion of missionary enterprise which will now be discussed.

4. *Missions in Northern Nigeria*

Both the Emir of Sokoto and the Shehu of Bornu claim to be Moslem caliphs, and between them, they retain the religious allegiance of most of the Moslems of the north. Out of the 10,000,000 inhabitants of the northern provinces, about 6,700,000 are Mohammedans.[11]

When Sir Frederick Lugard gave Letters of Appointment to the Emirs, he promised that the government "shall studiously refrain from any action which will interfere with the exercise of the Mohammedan religion by its adherents, or which will demand of them action that is opposed to its precepts," a pledge which is repeated with the appointment of each new Emir.

Now in the eyes of a Moslem, there is no difference between church and state; and later governors came to interpret this pledge of religious neutrality to mean the prohibition of Christian enterprise within the Emirates. Until recently, the government merely declined to grant land for Christian mission sites, but in 1926, it took a further step and forbade missionaries from preaching among a portion of the Burra group, who are partly pagans, and part of whom are subjects of a Moslem ruler, the Emir of Biu, located in the Bornu province. Neither are missionaries allowed to establish schools or hospitals in the Emirates.

[8] *Legislative Council Debates,* fourth session, 1926, pp. 68, 107.
[9] Cf. Vol. I, p. 848.
[10] *Address, cited,* 1920, p. 196.
[11] Table 49, Meek, *cited,* Vol. II.

In a letter written in 1919, the Colonial Office justified this policy on two grounds: First, because of the pledge to the Emirs, which should be constructed in the light of the fact that "Christian Missionaries are of the same race and creed as the higher officials of the Protectorate Government; and that if they should be granted land, etc.," the natives would arrive at the conclusion "that the Missionary propaganda had the support of the Government and that the Government was false to its pledges"; second, because any action which weakened the authority of the Moslem religion would weaken the authority and prestige of the Emirs with the result that the present system of indirect rule would be imperilled.[12]

It was also pointed out by the Governor that the entrance of Christian missions "might arouse the hostility and awaken the latent spirit of religious fanaticism."[13] Apparently he had in mind the rising in 1906 when an itinerant priest or "marabout" in Sokoto started a Holy War in which a number of officials were killed,[14] and the resurrection of the Madhi trouble in 1922. During the World War, the cult of Madhism was revived in the Anglo-Egyptian Sudan where it caused the British a good deal of trouble. In 1922, the movement was carried into northern Nigeria by Mallam Said, whose father had been the representative of the original Madhi in northern Nigeria, at the time of Khartoum. The government soon came to believe that Mallam Said the Second was working to bring about a Holy War to drive the Europeans into the sea. So it nipped the movement in the bud by deporting its leader.[15]

Now Sir Frederick Lugard did not promise the Emirs to exclude Christian missionaries from their country any more than he promised to exclude European traders. On the face of it, a pledge not to interfere with the Moslem religion does not confer a monopoly upon that religion, or prevent other religions from competing against it for adherents. If the administration were logical in its argument about church and state, it would proclaim Mohammedanism the cult of the British government!

That Sir Frederick Lugard did not follow the interpretations of later governors as to the meaning of his pledge is shown by his report for 1905-6 in which he said: "The Hausa Mission, hitherto stationed in the

[12] Cf. the correspondence between the Bishop of Lagos and the Governor, *Report of the Third Session of the First Synod of Lagos, May,* 1922, pp. 59 ff. For a resolution of protest against the policy, see the *Report of the First Session of the First Synod of Lagos,* 1920, p. xvi.

[13] *Legislative Council Address by the Governor,* 1924, p. 78.

[14] Cf. Orr, *The Making of Northern Nigeria, cited,* p. 172.

[15] Statement of the Governor, *Legislative Council Debates,* first session, 1923, March 31, 1924, p. 16. Cf. also Mallam Said (Deportation and Detention) Ordinance, 1924, *1926 Supplement,* p. 68.

Ghirku district, forty miles south of Zaria, transferred its headquarters to the latter city in March 1905, with my consent, on the invitation of the Emir, and they have it in contemplation to open a mission next year at Kano, with the consent of the Emir and chiefs, and also perhaps at Kontagora, where the Emir seems quite anxious to allow them to come. . . . The head of the mission, Dr. Miller, informs me that, during his eight months' residence in Zaria, he has met with nothing but courtesy from the Emir and people, and not only has there been no hostility, but the people have manifested a desire to 'read, to hear, and to consider.' . . . The Resident . . . cannot too warmly express his gratitude to Dr. Miller for the way in which he has endeavored to fall in with his views. . . . I believe that a very great deal of good has resulted." [16]

Likewise, in his *Dual Mandate in British Tropical Africa,* Sir Frederick Lugard says: "The Government will offer no objection if the ruling chief concurs. . . . For the reasons I have given it is necessary that the prior concurrence of Government should be sought before a Mission is established in either a Moslem or a pagan district. There can be no fear that a British administrator would withhold consent unless for some very cogent reason. If his reasons appeared insufficient, there is probably no class which commands a wider means of influencing public opinion through the press and Parliament . . . than the missionaries. . . ." [17]

Mr. C. L. Temple, late Lieutenant-Governor of northern Nigeria, did not regard the entrance of Christian missionaries as a violation of this pledge.[17a]

[16] *Colonial Reports—Annual, Northern Nigeria,* 1905-6, p. 469. In 1903, the High Commissioner wrote: "I am myself of opinion that it is unwise and unjust to force missions upon the Mohammedan population, for it must be remembered that without the moral support of the Government, these missions would not be tolerated. In effect, therefore, the mission obtains its footing on the support of British bayonets, and if they are established by order of Government, the people have some cause to disbelieve the emphatic pledges I have given that their religion shall in no way be interfered with. I have, however, held out every encouragement to establish missions in pagan centers, which appear to me to need the influence of civilization and religion at least as much as the Mohammedans." *Ibid.,* 1902, p. 135.

This statement implies that missionaries might enter a Moslem community with the consent of the Emir. Moreover, at the time he wrote, the natives would probably have driven out traders as well as missionaries if they did not have government support. During the last twenty-five years, a marked change in their attitude has come about.

[17] *The Dual Mandate in British Tropical Africa,* Edinburgh, 1923, pp. 594-595.

[17a] He writes: "Even in respect to the Mohammedan states, I do not hold with some who have argued that the presence of Christian ministers in the government's stations would cause suspicion on the part of the Muslims, or be regarded by them as the insertion of the thin edge of a wedge to result ultimately in a breach of our pledge to them not to interfere with the free exercise of their religion. Either my experience has led me entirely astray, or I can say with truth

From these various statements, it seems that under the original pledge Christian missionaries must first get the consent of the Emir before establishing a mission in his territory. But at present, government officials see to it that no missionary is allowed to interview an Emir with a view to making such a request. The Bishop of Lagos says: "Had the chiefs been left altogether to themselves, with the assurance that the British administration would not object to their receiving Missionaries, tactful Missionaries would have won their way and gained permission to enter these Emirates, even as they did in the days when Sir Frederick Lugard was High Commissioner. Now that the anti-missionary policy of the Government has been so firmly fixed in the minds of the native rulers of these Moslem states, I fear I must agree with His Excellency that permission is not likely to be granted by any Emir to a Christian mission to establish itself in his territory. In my experience, the attitude of a chief in such a matter is almost wholly dependent on the view which he believes the British administration takes with regard to it, and in the past, the latter has made its policy in the matter very plainly felt, that no Emir would dare to allow a missionary to settle in his territory." [18]

The entrance of a Christian mission into a non-Christian community creates a division within the community which did not exist before, and therefore complicates administration. Notwithstanding this fact the British government cannot hope, if indeed such is its desire, to shelter the native states from the religious and ethical teachings of the western world. It has already admitted the fruits and the philosophy of western industrialism into these areas—the representatives of which, in the form of European traders, have not always been of the best type, and whose chief concern is to make as much money out of the natives as possible. From the standpoint of the native and of the prestige of the white race, it is desirable that the natives should come into contact with another type of European.

If the social fabric of the northern Emirates cannot adjust itself to the religious ideas of the west, it is difficult to see how it can survive the frankly

that the contrary results would occur, and that the fact that Christian ministers of religion were to be found wherever there was any considerable number of Europeans would, so far from engendering suspicion, increase the respect in which the Muslim holds us. Every Muhammedan of any education knows the injunctions of the Koran regarding the people of the book, and that the Messiah was recognized by the founder of Islam. Such respectable Muslims are far more liable to be shocked and their suspicion aroused by an absence of the observances of the Christian religion by Christians than by the fact that Christian ministers are to be found in their country." C. L. Temple, *Native Races and their Rulers*, p. 218. This statement appears, however, to contradict ideas advanced in previous pages.

[18] The Right Rev. F. Melville Jones, *Report of the Second Session of the Second Synod of the Diocese of Lagos*, 1924, p. 30.

selfish doctrines of western industrialism. Far from being a disruptive influence, the work of Christian missions in the pagan states of Oyo, Ibadan, and Abeokuta has helped to make the progress of at least Abeokuta more rapid than progress in the north. The work of the C. M. S. mission at Zaria has not, apparently, weakened the Zaria Emirate. Moreover, the French, who are usually more sensitive than the British about these matters, have not deemed it necessary to establish such restrictions upon Christian work in their Moslem territories. The British have recently abolished such restrictions in the Sudan which indeed could not, it appears, be legally established in any mandated territory.[19]

This question has usually been looked at from the standpoint of the "rights" of the European missionaries.[20] But it should also be approached from the standpoint of the "rights" of the northern native. While Moslem converts to Christianity have been few, there is no good reason why Moslem natives should not be allowed to choose another religion, which, apart from its theology, has admittedly higher moral and social ideals than Mohammedanism. As we have seen, northern Nigeria is in urgent need of medical aid which the government cannot give. In the face of this need, it is impossible to justify the exclusion of medical missionaries, who have had such striking success in other parts of Africa, on the purely hypothetical ground that they would disturb the principle of indirect rule. If mission schools in the past had been allowed to spring up in northern as in southern Nigeria, the result might truly have been disastrous to the native states. But the missions and government of southern Nigeria are now working out a system of control and cooperation which, if applied to northern Nigeria, would increase the present educational effort there ten or twenty fold. Whatever justification the prohibition of Christian missions from northern Nigeria may have had in the past, it appears that the time for abolishing this prohibition has arrived.

[19] Cf. the attempt to establish spheres of influence in Tanganyika Territory, Vol. I, p. 483.

[20] Until recently, this question has been largely academic, as the missionaries did not have enough members to man their stations in southern Nigeria. This time has now passed, and a number of graduates of English universities have offered to go to Nigeria, provided they can work in the north.

CHAPTER 45

NATIVE POLITICS AND RELIGION

1. *The Educated Classes*

So far the discussion has centered upon the problem of the natives who still live within the bosom of the tribe. But there is an increasing number of Africans in Nigeria who, as a result of missionary effort, have received a European education. Driven by ambition, a desire to imitate the white man, and an education which has fitted them only for "literary" enterprise, these natives have forsaken agriculture to become clerks, barristers, physicians, teachers, or clergymen. Nigeria boasts of fifty-eight African lawyers and about twenty-five physicians, and 21,000 teachers and clerks.[1] Because of their newly acquired knowledge, they have become the most vocal members in the community.

Quite naturally Africans who have received an English education, even though it is in many cases inferior to a fifth grade education in an American grammar school, and who have acquired a certain amount of wealth have come to demand some share in the government. They feel that if the Administration is able to impose judicial and financial power upon "ignorant chiefs," it should give the "educated" class some political control. This class has demanded not so much participation in the municipal government of Lagos [2] as seats on the Legislative Council.

Before 1914 a Legislative Council of the Colony enacted laws for the Colony and protectorate of Southern Nigeria. Northern Nigeria, however, has no Legislative Council—its laws merely took the form of proclamations of the Governor. The Southern Nigeria Council had a few unofficial native members who necessarily represented a comparatively small number of educated natives on the coast.

When Sir Frederick Lugard became governor of a united Nigeria in 1914 he did not believe that a legislative council, with such a restricted membership, could fairly legislate for the whole protectorate.[3] Conse-

[1] *The Nigeria Handbook,* 1925, p. 388.

[2] Cf. Vol. I, p. 661, for a discussion.

[3] He wrote, "It is a cardinal principle of British Colonial policy that the interests of a large native population shall not be subject to the will either of a small European class or of a small minority of educated and Europeanised natives who

quently he induced the Colonial office to limit the legislative power of the Legislative Council to the Colony of Nigeria.[4] Elsewhere legislation would be enacted by proclamation. The Legislative Council continued to have an official majority of six and four unofficial members, who were generally identical with the Town Council members, and two of whom were natives; and it was usually presided over, not by the Governor-General, but by the Lieutenant-Governor of the Southern Provinces.

2. *The Nigerian Council*

In order to secure an expression of opinion from every part of Nigeria, the Governor also established the Nigerian Council, which consisted of thirty-six members—the Governor's Executive Council, the first Class Residents, the Political Secretaries and the Secretaries of the northern and southern provinces, as official members—and as unofficial members, six Europeans representing respectively Commerce, Shipping, Banking and Mining, the Chambers of Commerce and Mines; and six natives among whom were the most important chiefs of northern and southern Nigeria and representatives of the educated Africans of Lagos and Calabar. Having only advisory power,[5] the Council was confined chiefly to the discussion of the annual address of the Governor-General and motions previously submitted by members. In providing for the representation of chiefs, the government attempted to secure an expression of the views of the unlettered natives who compose the vast majority of the population. But the chiefs seldom attended the Council meetings.[6] Other official members came to feel that it was scarcely worth their time to participate in a body having

have nothing in common with them, and whose interests are often opposed to theirs. . . . A Council in such circumstances, as Sir C. Dilke observed in Parliament, 'is not a liberal institution, but a veiled oligarchy of the worst description,' and responsible autocracy is preferable. The point is of special importance in Northern Nigeria where the intelligent Emirs are in acute divergence in religion and social status from the natives of the coast." *Report on the Amalgamation of Northern and Southern Nigeria and Administration,* 1912-1919, Cmd. 468, p. 19.

[4] Art. 4 (1) Nigeria Order in Council, *Statutory Rules and Orders,* 1914, Vol. I, p. 631. The various Letters Patent and Orders in Council are printed in the *Gazette,* January 1, 1914.

[5] "No resolution passed by the Council shall have any legislative or executive authority, and the Governor shall not be required to give effect to any such resolution unless he thinks fit and is authorized to do so." Para. XVII, Nigerian Council Order in Council, 1913, *Statutory Rules and Orders,* 1913, p. 241.

[6] *Proceedings, First Meeting of The Nigerian Council,* December 31, 1914. Commenting on their absence, the Governor-General said, "Before many years are past, I hope and believe that this condition will have changed, and that I, or my successors, will see at the meetings of this Council a number of intelligent Native Chiefs representing the vast masses of the population and able to voice their thoughts. Until that time arrives they can only be represented by the Governor, by officials who are in daily touch with them . . . and by a few representative chiefs. . . ."

only advisory powers. In 1919 a member introduced a resolution asking that "the Council be either reconstructed so as to make it a serious factor in the governing of this Colony or Protectorate, or else be abolished." [7]

About the same time the National Congress of West Africa was organized, and demanded elective representation on the various legislative councils in the West African colonies.[8]

While the new governor, Sir Hugh Clifford, sympathized with the criticisms of the old Nigerian Council, he did not at first take kindly to the demand of the Congress of West Africa for the elective representation of natives.[9] He declared that it was farcical to suppose that "continental Nigeria can be represented by a handful of gentlemen drawn from a half dozen Coast tribes—men born and bred in British-administered towns situated on the sea shore, who, in the safety of British protection, have peacefully pursued their studies under British teachers in British schools, in order to enable them to become Ministers of the Christian religion or learned in the laws of England; whose eyes are fixed, not upon African history or tradition or policy, nor upon their own tribal obligations and the duties to their Natural Rulers which immemorial custom should impose upon them, but upon political theories evolved by Europeans to fit a wholly different set of circumstances, arising out of a wholly different environment, for the government of people who have arrived at a wholly different stage of civilisation. . . ."

3. *Elected African Members*

Two years later the Governor changed his tune. For apparently upon his recommendation the Colonial Office abolished the old Legislative Council and the Nigerian Council, and created a Legislative Council for the colony and the southern provinces [10] dominated by Europeans but containing ten African [11] members, four of whom are elected—three from the

[7] *Proceedings, cited,* 1920, p. 12. [8] For its history, cf. Vol. I, p. 832.

[9] He said (*Nigerian Council, Address by the Governor,* 1920, p. 18), "There has . . . been a great deal of loose and gaseous talk on the subject of popular election . . .," emanating for the most part from "a self-selected and a self-appointed congregation of educated African gentlemen who collectively style themselves the 'West African National Conference.'"

Any recognition of the claims of the West Africa Congress would be "mischievous, because they are incompatible with that natural development of real national self-government which all true patriots in Nigeria, and all honest men concerned in the administration of the country, should combine to secure and maintain."

[10] Nigeria (Legislative Council) Order in Council, November 21, 1922, *Statutory Rules and Orders,* 1922, p. 291. The Governor continues to legislate for the northern provinces by proclamation.

[11] The Order in Council does not limit this representation to natives, but since the native population controls the electorate, it presumably will always elect Africans and not Europeans. Cf. *Legislative Council Debates,* first session, 1923, p. 32.

city of Lagos and one from the city of Calabar. This is the first recognition in the history of British Tropical Africa of the elective principle, as far as Africans are concerned. Six other Africans may be nominated from areas in southern Nigeria, most of which do not have elected representatives. So far it appears that only five such Africans have been nominated. In appointing some of these members, the government tries to take tribal considerations into account; thus the Council contains a representative of the Egba division, appointed after consultation with the Alake of Abeokuta, and a representative of the Oyo division, appointed after consultation with the Alafin of Oyo. There is also a representative of the Ibo division, and of the Niger African Traders. The member appointed for the Rivers division happens to be a chief. The government likewise appoints seven European members, representing various Chambers of Commerce, and the Mining and Banking Interests. Each nominated unofficial member serves for five years. There are twenty-six government officials on the Council, which thus has an official majority, the total membership being forty-four.[12] A voter for the four elected members must possess a gross annual income of not less than one hundred pounds.[13] It is estimated that about 3,000 Africans in Lagos are eligible to vote. Every voter must register annually. Out of these 3,000, 1,381 registered in 1925, and only 843 in 1926. The latter number decided a bye-election in the spring of 1926. Commenting on this election, the *Nigerian Spectator,* edited by an African, declared, "The franchise was a new gift to the people of Lagos about three years ago, and it aroused much interest at the time. But it was a gift of foreign manufacture and genuine interest in it soon waned." It declared that when the franchise was granted, the town was at the height of the Eleko controversy and that a false leadership had developed over this issue. But the true patriots among the natives should continue to bring the people back to a condition when they could elect "sincere and self-respecting citizens." [14]

[12] The policy in regard to voting by official members was defined in 1923 by the Governor as follows, "It should be distinctly understood that, unless a direct order to the contrary is issued, all official members of this Council are completely at liberty, not only to speak, but to vote, upon any measure that is put before the Council purely at the dictates of their discretion. Even when the official order is given, any member who feels that it is necessary that he should do so is at liberty to rise from his place and to say that he has registered his vote under protest; but, in the ordinary course of events, the official vote will be as free and as uncontrolled as that of the unofficial members." If the case should arise where the unofficial vote is solid against the Government, "no action will be taken on the matter until further consideration has been given to it, or reference had to the Secretary of State for the Colonies." *Legislative Council Debates,* first session, 1923, p. 59.

[13] Cf. Article XX (Nigerian Legislative Council), Order in Council, 1922, and regulations made under this order, 1923, *Laws,* Vol. IV, pp. 343-354.

[14] "The Bye-election," April 3, 1926.

It thus appears that a very small proportion of the African population takes part in these elections. The general feeling of many Europeans and intelligent Africans is that the more extreme and less trustworthy natives are elected to office, and satisfy their inferiority complex by an unduly prominent and acrid participation in debate. Doubtless accusations will inevitably be made against new comers to a legislative body hitherto composed exclusively of a governing race. Moreover, these accusations have been resented by elected members, one of whom said that he was not sent there "for the purpose of opposing and criticising blindly every act of the Government, regardless of its merits or demerits, as is being frequently alleged by our detractors. . . . All that we desire, Sir, is to have a voice in the administration of the affairs of this country. . . ."[15] At the same time the record shows that African members have been extremely sedulous in their legislative duties.

One of the most useful features of a British Legislative Council is the written question asking the government for information—a practice taken from the House of Commons. Africans have been quick to seize upon the question as a means of airing their grievances and of embarrassing the government. Native members asked forty-three of the eighty-nine questions put at the 1926 session.[16] While natives have in some cases thrown real light on some problem, in other cases they have gone out of the way to ask captious questions—i.e., in one instance, a member asked for the itemized value of government property in Nigeria with a view to learning the amount lost by negligence. In reply the government informed him that the secretariat would require at least three months of steady work—even with additional help—to compile this information.[17]

Much the worse example of the conduct of African members occurred in 1926 in regard to the presentation of a solid gold Rose Bowl to the Resident of the Colony on the eve of his departure on leave. This bowl contained the inscription, "From the princes of Lagos in remembrance of August 8, 1925"—which was the date of the deposition of the Eleko. The implication was that the Resident had deposed the Eleko for the benefit of the princes of Lagos who thus showed their appreciation of his kindness.[18]

[15] *Legislative Council Debates*, first session, 1923, p. 104.
[16] *Ibid.*, fourth session, 1926.
[17] Nevertheless approximate figures were furnished him. *Ibid.*, 1925, p. 21. In another case an African asked what sums had been expended during the last five years for drugs, etc., in the Nigerian hospitals—information which was furnished him; *ibid.*, February 11, 1924, p. 22. In still another case an African asked for the total cost and dimension of a government garage—information which was also furnished; *ibid.*, p. 35.
[18] Cf. Vol. I, p. 662.

Realizing that the Resident would not knowingly accept such a gift, the donors wrapped the bowl in a parcel and told the Resident that it was a sample of native work intended as a present for his wife. In his hurry to get away the Resident did not open the package until he reached England. As soon as he saw the nature of the gift he at once sent it to the Colonial Office and asked what to do. Meanwhile, unaware of this action, the Lagos Members asked embarrassing questions in the Legislative Council, believing that they had caught the Resident in a trap. The Colonial Office advised the Resident to return the bowl to the donors, and the government in reply to these questions expressed the opinion that he had acted quite properly. It wished to dispel "once for all any suggestion that a charge of corruption or abuse of office might lie" against the Resident.[19] After further experiences African politicians may learn that the use of such methods is more damaging to themselves than to their opponents.

4. *African Political Parties*

As a result of the new constitution, a number of political groups have come into existence in Lagos, chief of which is the Nigerian Democratic Party. The first object of this party is "to secure the safety or welfare of the people of the Colony and Protectorate of Nigeria as an integral part of the British Imperial Commonwealth and to carry the banner of 'Right, Truth, Liberty and Justice,' to the empyrean heights of Democracy until the realisation of its ambitious goal of 'a Government of the People, by the People, for the People.'" The party does not desire independence, but wishes "to maintain an attitude of unswerving loyalty to the Throne and Person of His Majesty the King Emperor." The party stands for compulsory education; the repeal of the Provincial Courts Ordinance; the establishment of an independent Court of Appeal for British West Africa; full municipal self-government; and the abolition of segregation, presumably in regard to the European and native sections in Lagos.

The White Cap chiefs of Lagos, the heads of the mosques, the members of the "Ilu" committee, and the native district heads, together with others, belong to the Executive Committee.[20] So far this party has elected all of the three Africans to the Legislative Council. It is perhaps significant that two out of the first three elected members were born outside of Nigeria. These parties or cliques are vigorously supported by African newspapers whose particular delight is bear-baiting the govern-

[19] *Legislative Council Debates,* fourth session, 1926, p. 32.
[20] *Constitution, Rules and Regulations of the Nigerian National Democratic Party.*

ment on racial and administrative issues, but which appear to an outside reader much less intelligently edited than the papers of the Gold Coast.

Even if the best intentioned and most fully qualified members of the African community are elected to membership on the Legislative Council, their intellectual and moral background and standards differ so widely from that of the European majority that the Council will probably become divided into two racially self-conscious groups, one the European traders and officials—the other native barristers from Lagos and Calabar. Out of fear that the representation of the two races in the same legislative body will have a disruptive influence, South Africa [21] has adopted a system of parallel councils—one for the blacks and the other for the whites. For the vast majority of the people the place of such councils in Nigeria is taken by the native administration over which the Legislative Council is merely an organ of control. The "educated" classes of Africans do not participate in these administrations and until they do so they should necessarily have some other outlet for their political emotions. For this reason the election of a limited number of Africans to the Legislative Council, despite the inherent difficulties of the system, will probably remain. But under this system there is a danger that the educated members of the African community will set as their goal increased participation in the Legislative Council and the European administration and not the increased power for African tribal institutions.[22]

As the Nigerian government is already committed to the principle of indirect rule, the powers now exercised by the European administration will gradually be shifted to the native authorities. Some control over these authorities will probably be necessary for a hundred years —but this control may or may not take the form of a Legislative Council. As we have seen, it is not impossible that all legislation affecting natives of more than one community within the north will be enacted by a Council of Emirs and in part of the south by a Council of Yoruba chiefs, leaving to the European authority only matters affecting Europeans and such subjects as communications and foreign trade. Restricted to these activities, the Legislative Council has no logical place for an elected African majority. The ideal—which is really the ideal of assimilation [23]—is inconsistent with the ideal of indirect rule. While it is impracticable and undesirable to reduce the number of Africans at present represented on

[21] Cf. Vol. I, p. 114.

[22] Sir Hugh Clifford, when governor, perhaps unconsciously encouraged this hope when he declared that the elective principle was but a step toward eventual self-government and eventually the "backward" portions of the Protectorate could expect to have elected representatives on the Council. *Nigerian Council, Address by the Governor,* 1923, p. 3.

[23] Cf. Vol. II, p. 77.

the Legislative Council, the educated African should be given clearly to understand that the future political development of the country will come through the medium of African institutions and not through misfitted European formulæ.

5. *Native Churches*

While Lagos boasts of a number of political groups, the real differences of opinion among the Africans are religious in character. Perhaps the most important is the issue involving the Moslem sects and the Eleko.[24] Likewise the independent native churches, which are continually springing into existence, have created a division in the Christian community. As a result of the action of a committee of the Church Missionary Society in criticising Bishop Crowther, the first African bishop, a number of Africans held a gathering in 1891 and passed a resolution that the "foreign agencies at work at the present moment, taking into consideration climatic and other influences, cannot grasp the situation." [25] Consequently they organized an independent organization called the United African Church. This Church, which claims a membership of about 15,000, stands for Anglican theology, but has a Wesleyan organization. It frankly recognizes polygamy, which it says is not inconsistent with Christianity.[26] Its constitution says, "This organization did not preach polygamy, but tolerates it wherever that is the custom of the people and congenial to their soil and surroundings. It abhors the forcing of monogamy or foreign system of marriage among its members, firmly believing that neither monogamy nor polygamy is essential to Christian salvation; and since it cannot be proved from the Holy Scriptures that polygamy is a sin, the United African Church did not regard polygamy to be a sin." [27]

The United African Church is rather sensitive upon this point. For when a member of the Synod of the Diocese of Lagos called these doctrines "pernicious," the secretary of the African Communion sued the clerk of the Synod for libel. The Divisional Court of Nigeria, to whom the case finally went, declared that numerous passages in the New Testament laid down "in the clearest and most unequivocal manner" the doctrine of monogamy "as a part of the Christian faith. . . ." Therefore the doctrines of the United African Church were opposed to the accepted teachings of

[24] Cf. Vol. I, p. 662.

[25] Cf. p., G. A. Oke, *A Short History of the United African Church,* Lagos, 1918, Part I, p. 2.

[26] Cf. a series of articles along this line, in the organ of the Church, *The African Hope,* "Did God Detest Polygamy," in 1919 and 1920. In March, 1920, *The African Hope* said that open polygamy was better than indecent monogamy. "If all accounts of the social life prevailing in Europe . . . are reliable, we do not see anything worth envying by the African in that condition of life."

[27] *Revised Constitution of the United African Church,* 1921, p. 1.

Christianity and consequently it was not libel to call the teachings of the native church "pernicious." [28] The "Presiding Patriarch" of the Christ's Army Church makes this interesting argument in favor of polygamy:

"Remember that Religion is the Basis of all Civilization and the Boasted Civilization of the white man to-day comes from a Polygamic Race. Christianity from Jews, Mohammedanism from the Arabs, Hinduism from the Japanese (*sic.*), Buddhism from the Chinese. All these are polygamic nations and they have given to the world the Religions on which all Civilization are based. The only Religion that sprung from the white Race is Mormonism and even the Mormon Prophet enjoined his members to be Polygamic. Brigham Young, the next successor to Mormon Prophet of America, an English Speaking Race, has twenty-four wives. Material Civilization without the Spiritual life is dead. Therefore that nation which gives us the Spiritual life is the nation that has saved humanity. Christianity is the highest and purest Religion and you should guard against those who seek to corrupt it by endeavouring to force on the human Race owing to their Material prosperity in Empire building, Laws and Customs which God never sanctioned or enjoined." [29]

While we could suppose that a polygamous Christianity would attract thousands of natives from the orthodox fold, this doctrine has had throughout the entire continent surprisingly little appeal. It seems that the death of legalized polygamy in Africa is inevitable. With the cessation of tribal war, the number of men is coming to be about the same as the number of women. If polygamy should continue, many of these males would be prevented from obtaining mates which would produce an unsocial condition which could not long exist. Moreover, the feudal agricultural system, in which women played so important a part, is breaking down; while the native woman herself is beginning to rebel against being treated as a chattel. From the social standpoint, present conditions in Africa show that the monogamous home is essential if children are to be reared properly and if population is to increase.

A large number of other native churches exist in southern Nigeria. The Bethel Church admits polygamy among ordinary members, but differs from the United African Church only in opposing polygamous ministers whom the United African Church sanctions. The Penuel African Church —another independent organization which claims a membership of only 1550—is led by a minister called the Apostle; while the constitution

[28] Oke v. Gansallo (1923), *Nigeria Law Reports,* Vol. IV, p. 109.

[29] *The African Hope,* August, 1920. Polygamy is also defended in a lecture by S. A. Coker, "The Rights of Africans to organise and establish indigenous Churches, unattached to, and uncontrolled by Foreign Church Organisations," 1917, Lagos.

(art. 23) provides that every member of the church must "contract marriage of one form or another." Recently the Diamond Society has come into existence, a puritanical order which opposes gambling, smoking, drinking, lying, fornication. It is also opposed to infant baptism and the use of medicines, while it preaches faith healing. For a time this body kept within the fold of the Anglican Church, but when the Bishop asked that they give up their opposition to the use of medicine and to infant baptism, the Diamond Society became an independent organization.[30] Half a dozen of these independent native churches have associated themselves in what is called the African Communion—which it is hoped will develop into a united church. But a number of independent churches, such as the Diamond Society, decline to participate. In fact, the multiplicity of these organizations will probably prevent them from becoming effective political, or, for that matter, religious agencies for some time.

Occasionally these organizations are the product of religious revivals. One such movement occurred early in 1914 among the pagan tribes in the Delta region of southern Nigeria, under the leadership of a native named Braid who called himself the Second Elijah.[31] It appears that Braid was absolutely sincere in his efforts to bring about a revival; and he succeeded in getting thousands of pagans to give up the use of gin and to live otherwise moral lives and to abjure witchcraft. His influence became such that his followers proclaimed his bath water holy and sold it for 2s. 6d. a bottle. Later Elijah became more radical and denounced not only European gin but Europeans themselves. He said that if the English were the real children of God, the waters of the Niger would have parted for them as did the waters of the Red Sea for the children of Israel—but they did not part and the white man had to make a bridge over the Niger. He became so outspoken that the government finally intervened and convicted him of sedition. He was later released only to be killed by lightning. As a result of this remarkable movement, a new native church came into existence, called Christ's Army, which still exists to-day, under the leadership of a dignitary called a Patriarch.

The Church Missionary Society is the leading organization in Nigeria; its membership comprises 25 per cent of the total membership in churches under European control. The Niger Delta Pastorate comes second—having 14 per cent. This group of churches seceded from the C. M. S. (but not from the Church of England) in 1891 for a period of six years. It rejoined the C. M. S. but has since maintained an autonomous

[30] *Report of the Third Session of the First Synod of the Diocese of Lagos,* 1922, p. 11.

[31] For similar movements in the Belgian Congo, in South Africa, and the Gold Coast, cf. index—native churches.

existence. Its interests are cared for by an African suffragan bishop while it is managed and financed by African clergymen except in the Patani region where it is directly under C. M. S. missionaries. 224,000 out of the 564,000 native Christians [32] in Nigeria are Anglicans, while 147,000 are Catholics. The Primitive Methodists, United Free Church and Wesleyans are smaller Protestant organizations.

According to the census, the African Communion contains about 33,900 members, while other independent native churches contain 45,000 more.[33]

About 30 per cent of the church membership in Nigeria is independent of European control.[34] Nigeria is experiencing the same demand for religious independence from European missionaries as the Cameroons and South Africa have experienced. Christian missionaries are not irresponsive to the demand and, as far as the Protestants are concerned, are endeavoring to build up a self-sustaining native church. The Baptist mission from the southern United States has gone farther in this respect than other organizations in Nigeria. As soon as a native church becomes financially self-supporting, the Mission loses control over it, except for its moral influence.[35] Many missionaries believe that they have gone too far in this direction. The Church Missionary Society, representing the Anglican Church, has brought about the establishment of the Synod of Lagos,[36] the membership of which is composed of a great majority of African clergymen. The Bishop of Lagos is a European, but the suffragan bishop is an African. Except for the control of the bishop, this Synod is virtually self-governing. The diocese is divided into districts, over each of which is a district council composed entirely of Africans, which has charge of the church finances in the district. European missionaries feel that some control over local church organizations will be necessary for some time in order to insure that along with the profession of the Christian faith, natives follow the type of life which Christianity prescribes. This task at first is much more difficult for an African than for a European. Consequently the African is in greater need of help from the outside. Many missionaries do not believe that the African should receive full religious self-government until he is also politically self-governing, and that the two things go hand in hand. At the same time, unlike the state, the Church has no power of compulsion over natives, who may voluntarily

[32] Including those in the independent churches.

[33] Excluding 14,000 African Baptists who apparently maintain some connection with the American Baptists.

[34] Talbot, *cited,* Vol. IV, p. 119.

[35] Statement of Rev. Duval, *ibid.,* Vol. IV, p. 112.

[36] In 1919 the Diocese of Western Equatorial Africa was divided into the Diocese of Lagos and the Diocese of the Niger.

establish churches of their own. Hence, religious independence will probably precede political self-government. For this reason these various native churches, which embody the demand for independence, are of political importance to the Administration.

CHAPTER 46

LAND POLICY

1. *Native Land Customs*

NATIVE institutions in Nigeria as elsewhere in Africa are rooted in the land. As long as the land is held for the people and distributed by the chief, his authority has an economic sanction, and his people have a self-sufficient means of livelihood within the boundaries of the tribe. Thus anchored, the bulk of the population is permanent rather than nomadic—the group is held intact. The entrance of the Europeans, requiring both labor and land, disturbs this condition of affairs. If they succeed in securing title to vast expanses of land formerly held by native tribes or if they reduce large numbers of natives to wage-earners, living under artificial conditions away from their homes, the whole tribal framework disintegrates.

Now the object of the European occupation of the continent of Africa is presumably to promote economic development. The capitalist will say that if this object conflicts with the existence of tribal society, tribal society must go. Has not capitalism in the western world upset former methods of living; have not the automobile and the apartment house revolutionized western civilization? The answer is that while the western world has had more than a century to adjust itself to industrial civilization and to work out some system of social control, however inadequate that system may be, the dusky peoples of Africa have been obliged to absorb this civilization within the cramped space of some twenty-five years. The western world worked out its own destiny, unimpeded by an impatient taskmaster from without. The people of Africa, however, do not have the same opportunity. Their destinies are in the rigid hands of relatively "advanced" European people who are tempted to use the blacks for selfish needs. But merely from the standpoint of the economic interests of the outside world, the blacks may be pushed too rapidly and too far. In the long run, native methods of production which enlist the enthusiasm and creative spirit of the native, may yield greater economic return than European systems of production based upon a landless and listless class of native wage-earners. On the other hand, over-development which leads to the destruction of tribal society also leads to depopulation

and to anarchy. Without native labor and an increasing native population, no real economic development in tropical Africa is possible. It is a case of the goose and the golden egg.

In Nigeria, the British have proceeded upon the theory that the greater the attention shown to tribal institutions the larger will be the economic returns. They have believed that the policy of indirect rule, bringing with it a contented peasantry living on the soil, is a policy that is not only socially desirable but economically profitable. Consequently, they have attempted to direct the economic development of Nigeria so as to disturb these native institutions as little as possible. The first evidence of this policy is in regard to land.

Native land customs are pretty much the same throughout the whole of West Africa. Land ultimately belongs to the community represented by the chief. The head of the community allots land among its members either to an individual or a family; and as long as the member uses the land, he has security of tenure. Neither he nor the chief can, however, sell or mortgage the land to persons not members of his community.

When European governments annexed native territories, they acquired complete power, from the legal standpoint, to dispose of land as they liked. It is a rule of international law that they should respect the rights of private property. But in Africa it is difficult to determine what private property is; and this rule does not here have any force, since the native occupiers have no outside government to plead their cause.[1]

A government may declare all land Crown or public land as the British Government has done in South and East Africa.[2] Or it may recognize lands held under native customs as private property, only claiming the residual rights in the land for the Crown. Again, it may recognize all land in the territory as native land subject to the disposal of native communities. Under the Crown land system, a native cannot sell land to a European; all titles must come from the government. Under the second system, a native may sell his land to a non-European, subject to restrictions which the government may wish to impose, while the government may alienate unoccupied or Crown land. Under the third system, natives may similarly sell to Europeans, but the government has no land except what it expropriates for public purposes upon payment of compensation.

[1] Johnson v. McIntosh, 8 *Wheat.* 589, Cook v. Sprigg, *Law Reports* 1899, A. C. 572; M. F. Lindley, *The Acquisition and Government of Backward Territory in International Law,* London, 1926, Chap. XXXVII.

[2] Cf. Vol. I, p. 209.

2. *The Northern Nigeria Land System*

Before 1910, Northern Nigeria made a distinction between native lands and lands not in actual occupation by natives which the government, as suzerain and conqueror, could dispose of. The Emirs, in their first Letters of Appointment, ceded their ultimate "rights" in the land, in so far as they were held by the Fulani dynasty, to the Crown. Thus Northern Nigeria followed the second system described above. The government also exercised the right to control all cessions of land by natives to aliens.[3]

In 1908, the administration of Northern Nigeria fell into the hands of a number of officials who were inspired by the theories of Henry George and the doctrine of "economic rent." A committee composed of exponents of this theory in England was appointed by the Secretary of State for Colonies, to study the system of land tenure which should be adopted in Northern Nigeria. This committee came to the conclusion that the whole of the land of the protectorate should be vested in the government as a trustee for the natives, and that no title to the use or enjoyment of the land was valid without administrative consent.[4] As a result of these recommendations an ordinance was enacted in 1910—reenacted in the Land and Native Rights Ordinance, 1916,[5] which provides that "the whole of the lands of the Northern Provinces, whether occupied or unoccupied," are "Native Lands," and all rights over them are placed "under the control and subject to the disposition of the Governor, and shall be held and administered for the use and common benefit of the natives, and no title to the occupation and use of any such lands shall be valid without the consent of the Governor."[6] The ordinance, therefore, wiped out the former distinction between Crown Lands and Native Lands. All land can now be disposed of by the Governor whether to natives or to Europeans. In so doing, the Governor must have regard for native law and custom. He is also morally bound by the preamble of the Act which says: "Whereas it is expedient that the existing customary rights of the natives of the Northern Province to use and enjoy the land of the Protectorate and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves and their families should be assured, protected, and preserved. . . ." But as the Governor is the sole judge of whether or not a given alienation conforms to this re-

[3] The Lands Proclamation, 1900, *Northern Nigeria Laws,* 1905, p. 55. *Political Memoranda,* p. 350.

[4] *Report of the Northern Nigeria Lands Committee,* Cd. 5102 (1910) p. xxiii; the minutes of this Committee are printed in Cd. 5103.

[5] Cf. Chap. LXV, *Laws of Northern Nigeria,* 1910; also Chap. 85, *Laws,* 1923.

[6] Article 4.

striction, the security of the natives really becomes less than when land could be taken from the natives only with their consent. Holders of rights of occupancy may not, however, be evicted except for good cause. The natives are not expected to take out certificates of occupancy and their holdings continue to be administered by the chiefs, according to native law, as if the European law did not exist. But nevertheless the government may alienate this land. Rights of occupancy to non-natives are limited to twelve hundred acres for agricultural purposes and 12,500 acres for grazing purposes. An occupier, having received a certificate, agrees to pay compensation for any damage caused to natives—which implies that they can be obliged to move out.[7] The government has not exercised this power except in the case of one cattle concession which turned out to be a failure. So far, therefore, the law has had only a negative effect. It has prevented land alienations by natives to Europeans, and forestalled land litigation which is the curse of southern Nigeria.

3. *Land in Lagos*

In southern Nigeria distinction must be made between the Colony of Lagos and the Protectorate. In conquering the White Cap chiefs of Lagos, King Docemo originally agreed to respect their rights in the land. But gradually King Docemo increased his power, and prior to the cession of Lagos to the British in 1861, he issued seventy-six land grants or titles, stamped by the British consul—a unique form of procedure in native law. Following the annexation, the British Government passed an ordinance in 1863 providing for the appointment of commissioners to ascertain the "true and rightful owners" of land. As a result of their investigations, the government called in the Docemo titles and began to issue Crown grants to natives claiming land—which to-day number between three thousand five hundred and four thousand. Such a grant entitles the holder to sell and mortgage his property without restriction. The situation produced by this imposition of British property conception upon native tenure was described a number of years ago as follows:

"In Lagos and the surrounding districts the land law is a confused mass of English and native law. Land, subject to native tenure, is frequently con-

[7] According to regulations it is not lawful for any native to sell his certificate of occupancy to another native except with the consent of the Governor. Subject to any native law, a native occupier may sell his title to a blood relative, but it must be registered within six months. A native may sell to any other native resident in the district, with the consent of the district head and head chief.

He may sell outside the district only with the consent of the head chief and approval of the resident. If the district headman refuses consent, the occupier may appeal to the native court, and if the head chief refuses, he may appeal to the provincial court. These restrictions do not, apparently, apply to transactions

veyed according to the forms of English law; English legal terms are used, of the meaning of which the conveyancers are profoundly ignorant; estates in fee simple are purported to be conveyed when the grant has only a native title. . . . It not infrequently happens that land which has been conveyed as a fee simple in a conveyance in English form, is held by a family as family property. It sometimes happens that the head of the family, having a conveyance in his own name according to the form of English law, attempts to deal with the family land, or it may be taken in execution of his debts, and then ensues costly litigation by the rest of the family to prove that though he holds a conveyance in fee simple, yet the land is really family land and that they have an interest in it."[8]

The courts have decided that the native law of family property applies even to land held under Crown grant.[9] As a result of this partial introduction of British conception of land tenure into the colony of Lagos, the land situation to-day is in a maze of confusion. African lawyers indiscriminately draw up titles without regard to the real owners of property. Some lawyers engage in a blackmail business of deeding away land which they know belongs to other parties, as a result of which the courts are choked with disputes. Taking advantage of the freehold system in the colony, wealthy Lagos traders and clerks have, through loans and other means, gotten natives in the country, *i.e.,* at Badagry, in debt and foreclosed on their land with the result that many of the farms in these areas are owned by absentee landlords, Africans though they may be.

In annexing Lagos, the British Crown supposedly succeeded to the residual rights of the land. That is, while the rights of the inhabitants were to be fully respected, the remaining land was to vest in the British Government. But what were these rights of property? Apart from the Crown grants, land was held by communal tenure, according to native law. Should the government merely recognize the property held by these grants or should it recognize that other property held for communal purposes belongs also to the community?

This question arose first in the so-called Foreshore case in 1909 when the Full Court of Nigeria held that the land of Lagos, including the Fore-

between natives who do not hold certificates of title, but only to natives who have been granted certificates of occupancy.

[8] J. J. C. Healy and T. C. Rayner, *Land Tenure in West Africa,* 1898.

[9] "The law of family property still pertains in Lagos. At the death of a founder of a family the . . . eldest surviving son, is the proper person by the present native law of Lagos to succeed. . . ." Lewis v. Bankole, *Nigeria Law Reports,* Vol. I, 1908, p. 81. In another case the court said, "When land has been given by a master to the head man of his household in trust for all the household, and the head man has obtained a crown grant of the property in his own name, he holds it as trustee for the household," and a member of the household "has sufficient interest in the property to oppose its sale for the debt of another member. . . ." Alaka v. Alaka, *ibid.,* (1904) p. 55.

shore, had been, at least for the purpose of ceding it to the British Government in the treaty of 1861, the property of King Docemo (and not of the White Cap Chiefs who claimed it). This judgment was attacked by the Lagos Auxiliary of the Anti-Slavery and Aborigines Protection Society [10] on the ground that Lagos land had belonged to the White Cap Chiefs, and that King Docemo had merely ceded jurisdiction and not property rights to the British Government in 1861.

Upon appeal, the Judicial Committee of the Privy Council, which decided the case on other grounds, merely declared in regard to this agreement of 1861: "Their Lordships do not refer to the treaty further than to say that in their opinion property was not excluded from the Grant (which Docemo made to the Crown); and they think also that this is subject to the condition that all rights of property existing in the inhabitants under grant or otherwise from King Docemo and his predecessors were to be respected. . . ." [11]

While this judgment therefore took the position that the King of Docemo ceded the residual rights of the land to the British Government, it did not define what these rights were. This question confronted their Lordships in the so-called Apapa land case, decided by the Judicial Committee of the Privy Council in 1921. The case came up on appeal from the Full Court of Nigeria which had declared that the right of the chiefs over the land was merely a "seigneurial right giving the holder the ordinary rights of control and management of the land, in accordance with the well-known principles of native law and custom, including the right to receive payment of the nominal rent or tribute payable by the occupiers. . . ." In other words, the chiefs (as the Privy Council decided in the case of the South Africa Company in Rhodesia) [12] had merely administrative rights over the land which would pass to the succeeding government. But the Privy Council disagreed:

"Their Lordships think that the learned Chief Justice in the judgment thus summarised, which virtually excludes the legal reality of the community usufruct, has failed to recognise the real character of the title to land occupied by a native community. That title, as they have pointed out, is *prima facie* based, not on such individual ownership as English law has made familiar, but on a communal usufructuary occupation, which may be so complete as to reduce any radical right in the Sovereign to one which only extends to comparatively limited rights of administrative interference. In their opinion there is no evidence that this kind of usufructuary title of the community was dis-

[10] Cf. *The Lagos Land Question,* pamphlet, Lagos, 1912.
[11] Attorney-General of Southern Nigeria and John Holt, etc., *Law Reports,* A. C. (1915), 609.
[12] Cf. Vol. I, p. 209.

turbed in law, either when the Benin Kings conquered Lagos or when the Cession to the British Crown took place in 1861. The general words used in the Treaty of Cession are not in themselves to be construed as extinguishing subject rights. The original native right was a communal right, and it must be presumed to have continued to exist unless the contrary is established by the context or circumstances. There is, in their Lordships' opinion, no evidence which points to its having been at any time seriously disturbed or even questioned."[13]

This judgment seems to wipe out the residual rights which the Judicial Committee held in the Foreshore case passed to the British Crown in the treaty of 1861. It appears therefore that the government must recognize not only private property, as evidenced by Crown grants, but also communal lands which include in many cases the residual lands which under the rule of international law may be appropriated by the succeeding government. This liberal decision stands in contrast to the decision of the same tribunal in regard to the Rhodesia lands, all of which including land occupied by natives, it declared, were vested in the Crown. The political consequence of these conflicting decisions is discussed elsewhere.[14] Apparently the Nigeria and the Southern Rhodesia cases differ in the respect that in the years following the annexation of Lagos the Crown took no steps to interfere with native land tenure but that in the case of Rhodesia, even though it had not been formally annexed, the Crown in early years dispossessed the natives of their lands. The Judicial Committee is apparently disposed to enforce native rights which have been long recognized by the British régime against interference at this late period. But it will not enforce native rights against a régime which the Crown intended to and did establish at the beginning of its occupation.

4. *Land in Southern Nigeria*

Unlike northern Nigeria where the land is nationalized, all land in southern Nigeria belongs to natives, except such land as the government has taken by way of expropriation for "public purposes," and for which it must pay compensation as determined by the courts.[15] No compensation

[13] Amodu Tijani v. the Secretary, Southern Province, *Law Reports,* A. C. 1921. Cf. also Vol. I, p. 197, for the Swaziland judgment.

[14] Cf. Vol. I, p. 210.

[15] "Public purposes" means and includes:

"(a) for exclusive Government use or for general public use;

(b) for or in connexion with sanitary improvements of any kind, including reclamation;

(c) for or in connexion with the laying out of any new township or Government station or the extension or improvement of any existing township or Government station;

(d) for obtaining control over land contiguous to any port;

is paid for unoccupied land, which is defined as land which has not been used for at least six months during the preceding period of ten years.[16]

It is the custom of the government to pay the market value for occupied land plus ten per cent. In fact, the basis of compensation in some cases is more liberal than when land is expropriated in England. The courts also are extremely liberal in determining whether land is occupied or not.[17]

Apart from the land obtained from the Royal Niger Company and the expropriated land, it appears that the Crown in southern Nigeria has no land which it may use for itself or cede to Europeans in the form of concessions. From the beginning it adopted this policy of not claiming the residual rights in the land partly because it had acquired control of southern Nigeria, except in the case of Benin, by means of treaties rather than of conquest. Besides, most of southern Nigeria is so heavily populated that little waste land in fact exists. As a result of the conquest of Benin, the government could have claimed the residual rights in the land, and while the area was under direct rule the government did issue a few Crown leases. The Oba was restored in 1916 on condition that the government retain control over the land. In 1917, an agreement was made, however, under which the Oba was left free to deal with the land occupied by his people, but which provided that rentals received for land leases from non-natives should be divided between the protectorate and the native treasury.

The disposition of the little Crown land that exists in southern Nigeria is governed by the Crown Lands Ordinance of 1918.[18] Except with the

(e) for obtaining control over land the value of which will be enhanced by the construction of any railway, road or other public work or convenience about to be undertaken or provided by the Government; and

(f) for obtaining control over land required for or in connexion with mining purposes."

Section 2, Chapter 88, Public Lands Acquisition Act.

In reply to a question as to whether the government could expropriate land for the purpose of leasing to merchants, the Acting Attorney-General said that this would not be a "public purpose." *Legislative Council Debates,* third session, 1925, p. 5. These definitions may throw some light on the meaning of "public services" in the Mandates.

[16] Public Lands Acquisition Act (1917) Chap. 88, *Laws,* p. 893.

[17] In a Gold Coast case, the government expropriated one hundred and eighty-three acres of land which was uncultivated, covered merely with bush and ant-hills. But three natives vaguely testified that they had cultivated it, as a result of which the court held that "beneficial use" had been proven, and therefore they should be compensated. In the matter of land required for the service of the government at Accra, *Some Gold Coast Judgments,* edited by S. King-Farlow, 1917, p. 62. A Nigerian case held, however, that "if a man were to plant cassada and find afterward that the soil was so hard and barren that the cassada was not worth taking up, there could be no 'beneficial use' of land." Lewis v. Colonial Secretary (1887) *Nigeria Law Reports,* Vol. I, p. 11.

[18] Chap. 84, *Laws.* "Crown Land" means all public lands in Nigeria subject to the control of His Majesty and all lands which have been or may be acquired, but does not include lands subject to the Land and Native Rights Ordinance.

prior consent of the Secretary of State, the Governor may not sell any Crown land, but he may lease it subject to revisable rent. Agricultural leases of Crown land are ordinarily limited to an area of one thousand two hundred acres and to a duration of forty-five years.[19] It is not clear to what lands this ordinance applies. The Governor in 1900 acquired large holdings of land from the Niger Company, which theoretically may be considered as Crown land, but as these lands have never been delimited and as native communities have claimed them as their own, it does not appear that the government has any clear rights in such lands.

5. *Forest Reserves*

Likewise the British Government does not even claim the forests as public property. When it wishes to create a reserve it attempts to negotiate an agreement with the native community in which the community grants to the Governor the right to establish a forest reserve upon its lands. If the government authorizes forest produce to be taken from the land, and if the native community recognizes such produce to be the property of an individual or family, the royalties are paid to such individual or family. In all other cases, one-third of the royalties shall be distributed among the actual occupiers of the land most immediately concerned and the remaining two-thirds to the native treasury.[20]

If a European wishes to cut forest produce—and there is a fairly large export of mahogany—he must first make an agreement with the native community concerned, stipulating the royalty he will pay in return for the right to cut wood. This practice is in striking contrast to the policy in other territories where the government grants concessions of forest lands and receives royalties for its own as distinct from native use.[21]

In view of the necessity of preserving a water supply, forestry officers estimate that between twenty-five and thirty per cent of the entire area of a tropical country should be set aside as forest reserves.[22] But the natives cleared so much land for their crops—the farms are moved every few years according to the principle of shifting cultivation—that destruction of forests proceeded at an alarming rate. In 1916, the reserves

[19] The lessee covenants to pay compensation, as fixed by the Governor, for disturbing natives in their use of the land; and to bring the land under cultivation at the rate of one-eighth of the cultivable land a year. Regulations under Section 36 of the Crown Lands Ordinance, Chap 84, *Laws*, Vol. III, p. 516.

[20] In case there is no native treasury, the two-thirds shall be paid to the grantor in trust for the said community. Four agreements establishing forest reserves are listed in *The Forestry Manual*, Lagos, 1924, p. 892.

[21] Cf. Vol. II, p. 338.

[22] According to forestry officers, the Sahara desert is gradually making inroads along the frontier in northern Nigeria. In order to hold these inroads back, the government has established a string of reserves in Sokoto Province.

amounted only to two or three per cent of the wooded area, and even now (1927) they constitute less than eight thousand square miles.[23] Despite these considerations, the natives remain antagonistic to the idea of reserves because it interferes with land which they feel is necessary for shifting cultivation.

The situation became so serious that the government decided that if a native community would not make a forest agreement establishing a reserve, the government should have the right to establish the reserve on its own authority, despite the fact that the natives actually owned the land concerned. Consequently, the Forestry Ordinance of 1916 was applied to the whole of Nigeria. In case a native community fails to reach an agreement, the government may under this ordinance create a forest reserve on native lands. As a first step, a reserve settlement officer conducts an investigation to determine the nature of native rights on the land. Notices are posted in the local native language in every native court and the chiefs are informed that any individuals or communities claiming rights in the land should make them known to the settlement officer. He then makes a judgment defining the limits of the reserve and setting forth native rights on the land. Any person who is not satisfied may appeal to the courts. At the end of six months, or upon the decision of the court, the Governor may make an order constituting the land a forest reserve. Every right in the land in respect of which no claim shall have been made is thereupon extinguished.[24]

So far, we have been talking about government forest reserves established by virtue of an agreement with the native communities concerned or, in the absence of such an agreement, by direct order.

There is, however, a second type of forest reserve, the native administration reserve, which has been established by native authorities under native court rules.[25] Once established, these reserves are policed by forest guards appointed by the Native Authority. Forestry officers testify that it is much easier to persuade chiefs to establish native administration reserves than to persuade them to sign agreements to establish government reserves. In

[23] *Annual Report on the Forest Administration of Nigeria,* 1924, pp. 4 ff.

[24] Articles 7-12, Forestry Ordinance, 1916, Chap. 95, *Laws.* About thirty forest reserves have been thus established under this ordinance, and all but seven of these reserves have been in the Northern Provinces. In 1924, the native treasuries in the Northern Province derived a forest revenue of eight hundred and twenty-five pounds; while in the western provinces, royalties collected for owners amounted to about five thousand two hundred and forty pounds. *Annual Report on the Forest Administration of Nigeria,* 1924, p. 19.

In a case where the government finds it difficult to establish reserves, it adopts a half-way measure prohibiting natives from cutting any "protected" trees, except upon the payment of high royalties. *The Forestry Manual,* pp. 628, 640.

[25] Cf. Vol. I, p. 690.

the first case, the reserve remains the property of the people and the responsibility for its management remains with their chiefs. In the second case, the reserve passes to the control of the government, and the people feel that they have been deprived of some of their land. Hitherto, the native administration reserves have had no legal status, but a supplementary forestry ordinance has recently been drafted to give them legal recognition.

Forestry officers complain that native reserves under guards responsible to the native administration are policed more laxly than under native guards responsible directly to European forestry officers. But they admit that some native guards, whether working for the native administration or the government, are liable to become negligent and to accept bribes. The problem of relating the European forestry department to the native administration has not, however, been entirely solved.[26]

6. *Native Lands Acquisition Act*

While the land is recognized as belonging to the native communities, the government has enacted legislation aiming to prevent natives from selling their land in violation of native law or in ignorance of its value. The Native Lands Acquisition Act, 1917, provides that no person who is not a native of Nigeria shall acquire any interest in land without the Governor's approval.[27]

As a result of this control, between 1908 and 1912 only twenty-one sales of land by natives to non-natives, aggregating 2,022 acres, took place in southern Nigeria. It appears that most of these sales took place in urban centres for commercial purposes. There were one hundred and one leases totalling 10,872 acres for which an annual rent of 1,708 pounds was paid.[28] These figures stand out in sharp contrast to the large number of cessions which have been made by native owners in the Gold Coast, subject to a judicial rather than an executive check,[29] and to the situation in the Colony of Lagos, where no restrictions of any kind exist, and where during the same period 1,493 sales totalling 3,683 acres, four hundred and

[26] For similar difficulties in regard to forest reserves in the Gold Coast, cf. Vol. I, p. 801. The Estimates provide for thirty conservators of forests and four foresters—all Europeans. Mining rights in the Nigeria are somewhat inconsistently reserved to the government and not to the native communities.

[27] Section 3, Chap. 89, *Laws*. According to the Regulations under Section 6 of the Native Lands Acquisition Ordinance, an alien wishing to lease native land must, before the execution of the agreement, furnish full particulars to the district officer. The latter then makes inquiries as to the title of the native and the reputation of the alien. If the investigation is satisfactory, the officer asks the proposed grantee to deliver to him the instruments intended to be executed. They are then transmitted to the resident who sends them to the commissioner of lands for the approval of the Governor. *Ibid.*, Vol. III, p. 529.

[28] *Correspondence and Papers, West African Lands Committee*, p. 249.

[29] Cf. Vol. I, p. 820.

forty-two mortgages, and thirty-six leases of seventy-four acres bringing in an annual rent of 3,411 pounds, were made.

The restrictions imposed by the Nigerian Government do not apply to transfers between natives within the protectorate. But there is such a thing as a "stranger" native; *i.e.*, a native who, while he lives within Nigeria, may belong to another tribe. Thus an Egba living at Kano is called a "stranger" native. With the opening of the railway to Abeokuta and Ibadan, a large number of native traders from Lagos came to these cities. They induced some natives in Egbaland to sell them land for trading purposes, which the Alake and council ruled was contrary to Egba law.

In order to control such transactions, a number of native states in the southern province adopted a rule to the effect that permission to a "stranger" to occupy land could be granted only by the head of the community, subject to approval by the native court, and also by the Resident. Rents are to be paid into a communal fund.[30]

In Ibadan, a delicate situation arose over the fact that some native traders from Lagos purchased land not only for actual business but also for speculative purposes. From time to time, the Ibadan Council reiterated the rule that no transfer of land to strangers should be recognized unless it had received the express consent of the council. But despite these rulings, it appears that at least two Bales and some minor chiefs made large grants of land to strangers without reference to the council. Many of these grants went unchallenged until 1916, when the question arose as to their legality. The government appointed Chief Justice Speed to look into the question, and he recommended that an equitable settlement must be in the nature of a compromise and consequently that all non-Ibadans claiming to hold land should report their claims and receive in exchange a lease from the Bale and council for an indefinite term, rent free, with no right of transfer except with the consent of the Bale. He also recommended that no further alienations to strangers be recognized unless first approved by the Bale.[31] It appears that these recommendations were followed.

7. *Individual Titles*

In Nigeria, and to a greater extent in the Gold Coast, the growth in trade and the consequent cultivation of economic crops is leading to modifications in the native conceptions of communal tenure, to the extent that some natives are claiming individual ownership in the soil. This tendency has been increased by the sale of land by one native to another—a

[30] *Political Memoranda,* p. 391.
[31] *Report of E. A. Speed,* Ibadan, April 10, 1916.

practice unknown in the days before crops became commercially valuable.[32] African lawyers draw up titles and mortgages purporting to convey land which in many cases is later found to belong not to the individual connected with the transaction, but to the family of which he is a single member. When litigation over these cases arises, the courts usually hold that family land cannot be alienated or mortgaged without the consent of the family.[33] But in many cases, the court is kept in ignorance of the real status of the land, and it grants a judgment which in effect converts what was formerly communal land into an individual holding, to the detriment of several members of a family. As a consequence of these inter-native sales and mortgages, which in some tribes are in violation of native law, the land situation is becoming greatly confused. To clarify it, many officials and some natives wish the government to introduce a system of individual tenure and of Torrens titles. This idea is opposed on the ground that it would strike a death-blow at native administration. One land officer says, "Native rule depends upon the native land system. They must stand or fall together. If it is the policy of the Government to govern the natives through themselves, subject to European supervision, retaining what is useful in their institutions, the native system of land tenure must be preserved at any cost." [34] It is also opposed by the friends of the less advanced natives who stated that, apart from the smart coast traders, natives do not understand individual tenure and that therefore any attempt to parcel out definitive individual titles would result in spoliation of the illiterate classes.[35] Regardless of the nature of the title given them by a European government, natives cling with remarkable persistence to communal conceptions of property—as the French and the Transkei experiments with individual titles show.[36] The communal land system in Africa recognizes an obligation to the group and the obligation to use land beneficially which the system of unrestricted individual tenure in the western world does not impose. Probably the growth of new forms of wealth will break down the solidarity of the group and lead the wealthier natives to demand a form of individual tenure. Already great changes have occurred, the first of which has been a change from communal to family tenure. Eventually, the goal of private property may be reached. But

[32] Cases of freehold tenure of native origin are, however, occasionally found as in the Owerri Province. *Political Memoranda,* p. 361.

[33] Native "tenure does not recognise the right of an individual to alienate his interest without the consent of the family." Miller Bros. v. Ayeni, *Nigeria Law Reports,* Vol. V, 1924, p. 40.

[34] Testimony of Mr. Alexander, *Minutes of the Committee on the Tenure of Land in West African Colonies and Protectorates,* para. 3536.

[35] Cf. Vol. I, p. 1030, for the manner in which the Torrens system has worked out in the French colonies.

[36] Cf. Vol. I, p. 91.

there are obvious dangers in reaching it too hurriedly. Fear lest the development of individual tenure would weaken the authority of chiefs could be removed by having native land titles emanate from the Native Authority and not from the European government. The Alake and Council of Abeokuta are now working out a plan providing for the registration of all land in Abeokuta and the granting of titles which after approval by a native board and a lapse of six months during which they may be contested, become absolute.

8. *Mines*

Although European agriculture has been excluded from Nigeria, European industry has necessarily entered for the purpose of developing Nigerian mineral resources, a task which, because of the scientific knowledge required, no native can possibly perform. The most important mineral is tin, which is found on the Bauchi Plateau in the northern provinces. Exports have increased from 4,142 tons in 1913 to 9,293 tons having a value of 1,737,578 pounds in 1925. Nigeria possesses the second largest tin resources in the world. There are also a few gold mines in the northern provinces. The total number of natives employed on the mine fields during 1924 was 22,702.[37] This labor is subject to the general protection of the Master and Servant Ordinance,[38] the provisions of which are similar to such ordinances in other British colonies. Under regulations issued by this ordinance, no laborer can be required to work for more than ten hours a day, and he must be allowed a two hours' break at noon, in addition to adequate time to obtain fuel and cook his food in the evening. Unlike the workers in the mines in South Africa and the Congo, Nigerian mine laborers usually furnish their own food, part of which they obtain from camp markets which import grain. Contrary to the policy of other mines, the Nigerian mines do not oblige their laborers to sign contracts. The work is entirely casual—a native may go and come as he likes—a sign that, unlike the labor in some mines requiring contracts, this labor is voluntary. Wages vary from four shillings six pence to six shillings a week. Payments are made weekly, and an employer must pay the men personally and in cash. No figures of mortality from natural causes and disease are available, but the death rate from accidents in 1924 was 1.23 per thousand. Under the Minerals Ordinance, the chief inspector of mines or the resident of the province may order the cessation of any practice which may endanger life and health. The Safe Mining Regulations issued under this ordinance

[37] *Annual Report of the Mines Department,* 1924, p. 8. It is not clear whether this is the average number constantly employed or the total.

[38] Chap. 70, *Laws,* 1917. See Appendix.

provide for the safety of employees using machinery or explosives, or engaged in underground mining.

The vast majority of the laborers on the Bauchi tin mines do not come from the pagan inhabitants of the plateau, but are Hausas, Kanuris, Arabs, and pagans from adjoining provinces. The Hausas, especially, are accustomed to a wandering life. The injection of the mining industry has not had a disturbing effect on native administration because the numbers under employment are comparatively small.

Compared with other colonies, legislation in regard to the health and care of laborers under industrial employment in Nigeria is noticeably absent. Since the natives come voluntarily to work, the need for such legislation may not be so great as elsewhere. But the actual condition of this labor can only be determined by the mortality rates from all causes, which each mine should be required to keep. Some system of inspection of labor conditions is also desirable. The government does not assist in any way with recruiting for the mines, but it made an exception to this rule during the World War when it recruited labor because of the military necessity of tin.

The only other industrial enterprise of importance is the government coal mines at Enugu in southern Nigeria. These fields so far have been monopolized by the government. British merchants have stated that the price of coal in Nigeria is unduly high, and that the coal-fields should be thrown open to private enterprise. But the government has contended that as the labor supply is limited, a private company would experience great difficulty in obtaining sufficient labor. The Governor of Nigeria insists that at present the labor supply for these mines is purely voluntary. But, obliged to compete for a limited supply of labor, the government would have to "exert its influence and authority in order to secure for the government colliery the labor necessary to prevent its operations, which are a matter of vital importance to the whole of Nigeria, from being brought to a standstill.[39] It appears even now that the government brings some pressure to bear in securing this labor. The Governor recently said: "A good deal of consultation with the local chiefs and detailed arrangement and organization on the part of the political officers has been needed before the stream of supply has been made to flow as evenly and as regularly as it flows today." [40] There is always danger that when a government enters into business, it will, in case of shortage, use its position to secure labor by means which private enterprise cannot employ.

In addition to the tin and coal mines, which employ thirty thousand

[39] *Legislative Council, Address by the Governor,* 1924, p. 53.
[40] *Ibid.,* 1923, p. 115.

men annually, the plantations in the ex-German Cameroons, now administered as part of southern Nigeria, employ about twelve thousand men.

Timber concessionaires in Benin employ a certain number of wood cutters who undertake to work for six months before they are paid. Meanwhile, they are given advances with which to buy food—a system which, it would appear, is liable to abuse.[41]

According to the 1921 Census, out of 4,837,975 occupied male natives in northern Nigeria, about twenty thousand were "labourers." In southern Nigeria, out of 2,413,370 occupied male natives, there were nearly sixty-two thousand "labourers." Presumably, these laborers are all in European employment. If so, only two per cent of the male population is under European employment. The remainder of the Nigeria natives work for themselves.[42] An exception should be made for those in government employment. It is an interesting fact that native administration and native industry thus go hand in hand.

[41] Cf. *Visit to West Africa,* Cmd. 2744, *cited,* p. 233.

[42] There are, however, nearly twenty-three thousand natives employed in the native administrations of the north. There are also nearly eighty-six thousand traders in the north and two hundred and six thousand traders in the south. The government railway in the north employs 6360 natives. In the south, there are twenty-one thousand native clerks and teachers. Meek, *Northern Nigeria,* Vol. II, table 31. Talbot, *Southern Nigeria,* Vol. IV, p. 162. Cf. also p.

CHAPTER 47

NATIVE AGRICULTURE

1. *Exports*

SINCE all land in southern Nigeria is recognized as native land, a system of native—in contrast to European—agriculture necessarily prevails. Natives not only grow food to feed themselves, but they also grow much produce for export. In northern Nigeria, the leading commercial product is groundnuts, the production of which increased from about 78,266 tons in 1924 to 127,226 tons in 1925—and hides and skins. The agricultural department, aided by the British Empire Cotton Growing Association, has introduced American cotton into both northern and southern Nigeria. The export of cotton amounted to 39,000 bales in 1924-1925. In southern Nigeria, cocoa has also been recently introduced. In 1924 about 44,000 tons were exported in comparison with 3600 tons in 1913.

The increase in the leading exports from Nigeria is shown in the following table:

EXPORT TRADE[1]

Year	Palm Oil (tons)	Palm Kernels (tons)	Cocoa (tons)	Ground Nuts (tons)	Cotton Lint (cwt.)
1900.....	45,508	85,624	202	599	215
1905.....	50,562	108,822	470	790	12,300
1910.....	76,851	172,997	2,932	995	22,128
1913.....	83,090	174,718	3,621	19,288	56,796
1914.....	72,531	162,452	4,939	16,997	50,444
1918.....	86,425	205,167	10,219	57,554	13,214
1925.....	128,113	272,925	44,705	127,226	132,724

[1] *Annual Report on the Customs Department of Nigeria,* 1925, p. 12.

The most important agricultural product of Nigeria is, however, palm oil. A palm tree belt covers the surface of Africa between Lake Tanganyika and the Atlantic sea-board. The oil palm growing within the belt bears clusters or "régimes" of fruit—having the appearance of dates—which, when crushed, produce an oil. Inside the fruit is a hard kernel which produces an oil of a finer quality. From the beginning, natives have used the oil, which they have obtained by crushing the fruit in a stone or wooden mortar, as food. Since the coming of the white man, they have sold both

oil and kernels to traders who have shipped these products to Europe where they are used for tin-plate rolling, the manufacture of soap, and other purposes. In 1925, the United States imported from Nigeria about thirty-three thousand tons of palm oil.[1] The export of palm kernels has increased from 85,624 tons in 1900 to 272,925 tons in 1925.[2]

Notwithstanding the fact that these exports in palm kernels are much greater than oil exports from any other colony in Africa, the palm oil resources of Nigeria are scarcely touched. Much of the fruit, all of which now grows wild, is not picked, due to shortage of labor or to lack of native energy. It is also believed that because of the primitive methods which the natives use in extracting the oil and kernels from the fruit, about fifty per cent of the oil is lost, in comparison with fifteen per cent which is lost by extraction by European machinery. Likewise, these native methods develop free fatty acid in the oil to a much greater extent than do mechanical methods.

2. *The Demand for Palm Concessions*

Obviously if palm trees were cultivated in plantations the yield would be much greater than when they grew wild. A wild palm must shoot far above the unfriendly trees around it in order to procure light. But the lengthening process absorbs the strength of the tree so that some twelve to twenty years of growth are necessary before it begins to bear; while a plantation palm, which does not need height and is cared for, bears at the end of six years.[3] Moreover, the fruit of plantation trees can be much more quickly gathered than that of trees scattered through a forest.

Consequently, in order to exploit the oil resources of Africa, many European commercial interests and some officials believe that palm plantations and mechanical methods of crushing fruit should replace present native methods of gathering sylvan palm produce. These considerations have been strengthened by the fear of competition from the Lever con-

[1] Before 1914, Germany took the greater part of Nigeria's palm kernel exports. These exports were necessarily terminated during the period of the War. In order to kill the German industry, the British Colonies, at the direction of the Colonial Office, imposed an export duty which did not apply, however, in case the kernels were shipped within the Empire. The differential feature was repealed in 1920. German purchases of Nigerian palm kernels increased from 8389 tons in 1922 to 103,184 tons in 1925 in comparison with 145,783 tons in 1911. Purchases in the United Kingdom, however, increased from 22,885 tons in 1911 to 209,177 tons in 1919. In 1925, British purchases dropped to 158,112 tons.

[2] All 1925 figures given here include the Cameroons. *Annual Report of the Customs Department of Nigeria,* 1925, p. 42.

[3] Cf. Report by the Hon. W. G. A. Ormsby-Gore, *Visit to West Africa,* Cmd. 2744 (1926) Chap. VI. Also *Legislative Council, Address by the Governor,* 1924, p. 118.

cessions in the Belgian Congo [4] and from Dutch plantations which have come into existence in Sumatra since the World War. Mr. Ormsby-Gore says: "I have been informed that in Sumatra one estate of 50,000 acres will in ten years be producing a ton of palm-oil annually to the acre, and that by that time the production of high-class plantation oil from the Dutch East Indies alone—apart from the Congo and Malaya—will exceed the present output of the whole of West Africa. . . . Nobody can any longer doubt that West Africa has soon to face real competition in a product hitherto regarded as her natural monopoly. . . ." [5] European merchants prefer the plantation instead of the native system of palm production for commercial as well as for productive reasons. At present, the price paid natives for oil in Nigeria is so high, owing to the severe competition between various merchants, that the margin between the Nigeria and the Liverpool market prices is very small. Hitherto trade in West Africa has been conducted on the principle that native agricultural produce should be purchased at cost, and that the traders' profit should be made on the sale of European merchandise to the natives. The establishment of palm plantations on a large scale would give them a monopolistic—from the comparative standpoint—source of fruit which would insure them a share in profits which under the present system they now pay out to native gatherers.

These considerations have led to a movement among British business men for the introduction of the European plantation system in Nigeria. In 1917, a member of Parliament who was at the time His Majesty's Controller of Oils, Oilseeds, and Fats, and a member of the Empire Resources Development Committee, advocated the establishment of a "virtual monopoly of palm products in West Africa," he said "these colonies should be regarded from the standpoint of Estates of the Crown which should be developed for the benefit of the Empire." He also said that the land belonged to the Crown and that the natives were "an undeveloped national asset who should be trained and utilized to the fullest extent. . . ."

Other expressions of opinion were made. In 1918, the Association of West African Merchants of Liverpool passed a resolution expressing the hope that "One of the Government's first undertakings will be a careful and yet drastic revision of the laws regulating land tenure." [6] Following

[4] Cf. Vol. II, p. 511, for a discussion of these concessions. Cf. also the testimony of Mr. C. C. Knowles of Lever Brothers before the Edible and Oil-Producing Nuts and Seeds Committee, *Minutes of Evidence*, Cd. 8248 (1916) paras. 2432, ff. This competition is also described in *The African World Supplement*, February 28, 1926, and the *Times Trade Supplement*, March 6, 1926.

[5] *Visit to West Africa*, Cmd. 2744, *cited*, p. 102. For French fears of the same competition, cf. Vol. II, p, 23.

[6] Quoted, *Minutes of the Nigeria Council*, 1918, p. 19.

the World War, Lord Leverhulme, who had secured vast palm concessions in the Belgian Congo,[7] attempted to secure freehold rights to land from the Nigerian Government for a similar purpose. In an address in England, Lord Leverhulme said, "I say, then, with my little experience, that the Africa native will be happier, produce the best, and live under the larger conditions of prosperity when his labour is directed and organized by his white brother who has had all these million years start of him." [8] In other words, he wished to introduce the European plantation system, in which the natives, instead of working for themselves, would work for a European employer on a wage system. Apparently the refusal of the Nigerian Government to consider such a proposition, together with other reasons, caused Lord Leverhulme to make a number of attacks upon the administration of Nigerian finances and other features of the government.[9]

Whatever their economic advantages may be, the establishment of such plantations would at once encounter the system of land tenure in southern Nigeria. As we have seen, the land is held by the native communities. The government has at present no land which it may alienate to concessionaries. In northern Nigeria, the government, under the ordinance of 1915, may, however, make such concessions. But since most of northern Nigeria lies outside of the palm belt, the question is of importance only in the south.

Following the enactment of the Land Ordinance of 1910 in northern Nigeria, a number of people in England, interested in the application of Henry George's theories of economic rent, sent a letter to the *Times,* asking that the Colonial Office examine how far it was expedient to extend the principles adopted in northern Nigeria to the south. They said that what was required not only in southern Nigeria but in the Gold Coast and Sierra Leone, "where there are no white settlers, are Land Acts which . . . shall secure the threefold aim of legalizing the rights of the natives to the occupancy and use of the soil, preventing the creation of monopolies in the soil's produce whether natural or cultivated, and reserv-

[7] Cf. Vol. II, p. 511.

[8] *West Africa,* July 26, 1924, p. 745. For the doctrine in Kenya, cf. Vol. I, p. 528.

[9] It appears that Leverhulme was also irritated by losses he experienced after the purchase of the Niger Company. These charges are discussed by the Governor in *Legislative Council, Address by the Governor,* 1924, pp. 11, ff.

In January, 1925, Governor Clifford invited Lord Leverhulme to dinner at Government House, Lagos, an invitation which Leverhulme accepted. The next day, he invited the Governor to dine with him on his yacht. But the Governor declined to accept the invitation until Lord Leverhulme had apologized for a speech in Liverpool in which he had spoken of "bureaucratic and autocratic government officials [who] interpret their powers to include the worst features of our colonial government system of two centuries ago, and which (*sic*) lost us our American colonies." Lord Leverhulme did not apologize.

ing the value of the land, and freedom of access to it, for the future generations of our protected subjects." [10]

Apparently as a result of this letter, the Colonial Office appointed the West African Lands Committee, of which the chairman was Sir K. Digby, to inquire into the system of land in West Africa, with a view of determining the wisdom of introducing the northern Nigeria system.[11] The announcement of the appointment of this committee was received with much alarm by the people of Nigeria. A mass meeting, held in Lagos, decided to send deputations into the hinterland warning the Africans that the government was going to take their land. The natives especially objected to the use of the word "occupancy" in the northern Nigeria ordinance. They insisted that they did not occupy but that they "owned" the land. A speaker at one mass meeting said that "any step directed to alter the land tenure system . . . must produce profound disorganization and widespread discontent, especially as the proposed changes aim to lend insecurity to the Native Right of ownership in the land." One chief said that "To deprive one of ownership of his land" was "worse than murder or burglary." Another speaker pointed out the concession which the government had just granted to Lever Brothers in Sierra Leone, and said: "This looks like an intention on the part of the government to divide up the land of the colonies into estates for their people as their statesman named Chamberlain has suggested by saying that the colonies were undeveloped estates to be developed in the interest and to the benefit of the owner." [12] At Abeokuta, the chiefs and people asked the Alake to explain the rumors that the government intended to deprive them of the ownership of their land. When the Alake asked the British commissioner to make a statement, the latter said he could not believe that this was the intention of the government.[13] Deputations also interviewed the Governor at Lagos.

The purpose of the extension of the land legislation of northern Nigeria throughout West Africa was not, according to the advocates of this policy, to make it possible for the government to grant concessions to Europeans,

[10] *The* [London] *Times,* June 6, 1912. The signers of this letter included E. D. Morel, Noel Buxton, J. Ramsay MacDonald, and Joseph Wedgwood.

[11] The relation of this committee to the land question on the Gold Coast is discussed in Vol. I, p. 823. The minutes and draft report of this committee were printed in 1916, but the report has never been published, owing to the refusal of certain members to sign it. The minutes may be consulted at the Colonial Office Library at London.

[12] *The Land Tenure Question in West Africa,* a report of meetings held in different native towns (pamphlet), Lagos, 1913.

[13] The people of Lagos were already disturbed by the decision of the Full Court in the Foreshore case to the effect that the land of the colony belonged to the Crown and not to the people. Cf. Vol. I, p. 754.

but to place control of all lands in the hands of the government, to prevent fruitless controversies and ill-advised alienations, and to secure the unearned increment of the land to the community and government. But the natives shrewdly realized that once full power over their land was vested in the government, the administration, under the pressure of commercial interests at home, might alienate this land to European concessionairies, as it had done in Rhodesia and Kenya—over the heads of the native people.[14] They opposed the ordinance on the ground that it would invade their rights in the soil. Apparently because of the strength of this opposition, the matter was dropped.

Following the World War, the demand for plantations and for freehold titles in West Africa again brought forth native protests. In 1926, the National Congress of British West Africa passed a resolution saying: ". . . Experience having shown that production by peasant-proprietors working on their own land is more advantageous than the plantation system, the Congress deprecates any attempt to introduce the latter system into British West Africa. . . . The Congress affirms that the lands of British West Africa are the lands of the people." [15]

After reading over the speech of Lord Leverhulme advocating the plantation system in West Africa, an African member of the Nigerian Legislative Council asked the government to make a definite declaration as regards native land tenure "in view of the great and widespread anxiety" which the Leverhulme speech had caused. In reply, the Acting Chief Secretary of the government said that Leverhulme's ideas were "diametrically opposed to the declared policy of the government of Nigeria. . . ." He further said: "The policy of the Government with regard to land in the southern provinces is to perpetuate and to maintain in their integrity, as far as possible, all native customary rights therein. . . . There is no intention whatsoever on the part of the Government to depart or to deviate from its declared policy in this matter." [16]

3. *Governor Clifford's Argument*

Thus a conflict has arisen on the West Coast between native land tenure and native production and the European plantation system. For the moment, the government of Nigeria has decided in favor of the natives. The reasons for the opposition of the government to European plantations in West Africa in 1920 was set forth in a long memorandum prepared by Governor Clifford. While this memorandum dealt with large-scale Euro-

[14] Cf. The relation of the plantation school in West Africa to white settlement in East Africa is discussed in Vol. I, p. 539.

[15] *Gold Coast Leader, Supplement,* July 17, 1926.

[16] *Legislative Council Debates,* second session, 1924, p. 17.

pean, as opposed to native, cotton growing, the arguments applied equally to palm or rubber plantations. The Governor was strongly of the opinion that "the development of any agricultural industry of importance in a Tropical Dependency should be kept, as far as local circumstances permit, exclusively in the hands of the indigenous population. . . ." He went on to say: "Agricultural enterprises conducted upon any really large scale under European management and supervision have found that, in order to maintain a regular labour force of sufficient strength and reliability to meet their requirements, recourse must be had to some organised system of immigration from without the areas in which the agricultural operations in question are being carried on, or, failing that, to some form of more or less open compulsion." In the West Indies, the sugar-estates were originally developed by African slaves. Trinidad, in 1897, imported Indians for sugar and cocoa estates; but the Indians did everything possible to escape from European employment and become independent land owners. The tea estates of Ceylon also had to rely upon imported labor, since the local population refused to work for European employers. The laborers employed on the rubber estates of Malay were Tamils from India, while the tobacco estates of Sumatra and Borneo were dependent upon Chinese. The Governor declared:

"In every one of these instances, . . . the very existence of these European agricultural enterprises, undertaken on a large scale in the Tropics, is shown to be dependent upon a regular and adequate supply of *immigrant* labour—that is to say, upon highly artificial conditions."[17]

". . . . Estates in the tropics which are dependent for their labour supply upon the local agricultural population always occupy a highly precarious position as they are inevitably exposed to grave risks. The volume of such a labour force is never a constant factor, but instead, is subject to frequent and violent fluctuations. Its numerical strength is apt to be in inverse ratio to the estate's immediate needs; for during specially fruitful agricultural seasons, when most work is demanded by the estate, the people who are goaded by necessity to undertake it are fewest in number. Moreover, labourers of this class, who have an immediate interest in land of their own or of their neighbours situated in the vicinity of the estate, are apt to drift away in platoons, just when their services are most urgently required, in order to weed, sow, or reap their own or their fellows' crops as the season for such work arrives."

The Governor also believed that the cost of production of tropical industries in the hands of a native rural population was cheaper than that of estates owned and managed by Europeans.

[17] Cf. also conditions on the Rhodesia and the South Africa mines, and the demand for imported labor in Kenya, Index.

"To begin with, the extreme simplicity of native agricultural and financial methods makes for cheap production. The white man is the most expensive of God's creatures; and his salary, the cost of his passage, the construction and furnishing of his home, the provision of his necessary means of locomotion, etc., etc., all combine to represent a figure that makes an appreciable inroad into the gross earnings of any estate. His whole system of operations, too, is elaborate and costly. His books and his statistics must be kept with the nice accuracy demanded by the European shareholder; his Board of Directors must be maintained and fee'd; his business requires expensive offices to be maintained in some central quarter of a great city; and his shareholders reluctantly consent to forego larger dividends in order to enable all the money that is needed to be put into the development of the estate. The cocoa-farmer of the Gold Coast, or the ground-nut or cotton-cultivator of Nigeria knows nothing of these things. His individual holding is comparatively small, and is usually capable of being tilled by himself and the male and female, adult and juvenile, members of his family. If he extends the area under cultivation beyond the capacity of the labour supplied by his immediate *entourage,* he usually employs . . . a handful of labourers who are not so much his *employées* as shareholders in the enterprise. . . . The owner of the land runs no risk, for he stands to gain handsomely if his crop sells well, and to economise proportionately on his labour-bill when prices are bad. No equally economical arrangement is open, of course, to the Management of an European estate when the crop proves to be disappointing; while its shareholders' contributions to the enterprise are purely financial, and do not take the form of active, physical assistance in the development of the property.

"It is admitted, of course, that European methods of cultivation—at any rate when the crops in question are not of a kind that has long been indigenous to the country in which they are grown—are vastly superior to those which a tropical rural population can ordinarily be persuaded to adopt; and also that the produce of European estates is generally of much higher quality and is far better prepared for market than is the case with most native-grown crops. . . ."

Yet if a serious slump in price comes, it is the indolent and slovenly farmers who will survive. "It would be the extraordinary cheapness of their production that would save them, in spite of their happy-go-lucky methods of cultivation. . . ." He cites statistics to show that whereas the development of the native cocoa industry in the Gold Coast and Nigeria has been extraordinarily rapid and progressive, the production of tea on European estates in Ceylon has been stationary during the last twenty years. His conclusions are that agricultural industries in the hands of native peasantry (a) have a firmer root than similar enterprises when owned and managed by Europeans, because they are natural growths, not artificial creations, and are self-supporting, as regards labor, while European

plantations can only be maintained by some system of organized immigration or by some form of compulsory labor; (b) are incomparably the cheapest instruments for the production of agricultural produce on a large scale that have yet been devised; and (c) are capable of a rapidity of expansion and a progressive increase of output that beggar every record of the past, and are altogether unparalleled in all the long history of European agricultural enterprises in the tropics.[18]

Statistics are lacking to show whether or not in view of the extremely high overhead to which plantations are subject they really can produce oil more cheaply than the natives. But the consideration of cheapness of production is not the only consideration controlling the entrance of plantations into West Africa. Of much more importance to the natives is the question of their lands and the effect of the plantation system upon their native institutions. The introduction of European plantations would mean the dispossession of a large number of natives from land which hitherto the government had recognized as their own—which could probably be accomplished only by the use of force. If these concessions were granted in any large numbers, the necessity for recruiting labor would also arise. And if half of the male population of the native states in southern or in northern Nigeria, as in South Africa, Kenya, and the Belgian Congo, should be obliged to go and come intermittently from plantations to their homes, it would be a matter of only a few years before native administrations would be destroyed, or at least their development retarded.

While in his recent report on West Africa, the Under-Secretary of State for Colonies expressed disapproval of the proposals of the late Lord Leverhulme, he did approve the idea of ninety-nine-year leases.[19] As far

[18] He also said it was a mistake to leap to the conclusion that native methods were necessarily antiquated. The visitor to Kano would assume that plowing with cattle would be an obvious improvement in the cultivation of groundnuts. But experiments proved that owing to heavy rains and other difficulties, hand cultivation was best. Cf. "Correspondence relating to the Policy to be adopted with regard to projected Commercial Enterprises for Cotton-Growing on a large scale in the Tropical African Colonies and Protectorates." *Sessional Paper No. 1* of 1920, Nigerian Council.

In reply to this argument, Lord Milner, Secretary of State for Colonies, wrote, "I entirely agree with you that the actual cultivation and growing of cotton and similar crops should be kept, as far as local circumstances permit, exclusively in the hands of the native population, European intervention being confined to the provision of technical instruction, the planning and carrying out of irrigation schemes, the purchase of native grown agricultural produce, and the preparation for the market by ginnings, etc., of crops which require to be so prepared by machinery." *Ibid.*, IV.

[19] Subject to "limits as regards area and with due provision for preserving the rights of, or paying compensation to, existing occupiers. . . ." He goes on to say: "There are areas even in the palm-belt of southern Nigeria where the population is sparse and the land is not being used. In such areas, the grant of leases is not only possible, but unobjectionable, provided that the rent of such land is paid to the native community or the individuals whose rights are affected. What is

as the native is concerned, this distinction between a ninety-nine-year lease and a freehold is pure legalism. Once plantations are introduced, no matter what the tenure may be, the disrupting influences on native tribal life become operative.

4. *Improvement of Native Production*

Moreover, native methods of oil production can be improved. The government is making efforts to get natives to plant small palm plantations as they plant cotton or cocoa, and thus secure the benefits of cultivation as compared to wild produce. Stringent efforts are being made to get the native to adopt handpresses and other mechanical instruments for the extraction of oil, to replace wasteful native methods.[21] In some cases, native treasuries are installing such presses. The erection of European mills for the extraction of oil has also been proposed. Natives would be asked to bring their fruit to such mills just as they bring their cotton to ginneries. So far, the experience with these mills in Sierra Leone has not been happy.[22] But it may be more successful in Nigeria, especially if the government gives mill operators a certain guarantee for a few years. Some system of inspecting the quality of Nigerian oil should also be installed, as has been done in Sierra Leone.[23]

Such measures—improved cultivation, the introduction of hand presses or oil mills fed by native fruits, and inspection—all will improve the quality and yield of native oil to such an extent that European plantations, forced to bear an overhead to which the native is not subject, would probably find competition with natives unprofitable.[24]

Less fearful of the results of the plantation system than his predecessor, Sir Graeme Thomson, the present Governor of Nigeria, favors the establishment of a limited number of palm plantations, the example of which it is hoped natives will follow. Before passing final judgment on such an experiment, one must determine the methods by which the planter obtains

objectionable is permanent dispossession of the natives, particularly in populous areas." Cmd. 2744, *cited,* p. 108.

[20] Mr. Ormsby-Gore himself says: "Even if the rapid development of the plantation industry in other countries succeeds in depressing the price and curtailing the market for the West African products, the native will continue to produce. In fact, while high prices are a great stimulus to increased production, however paradoxical it may sound, low prices may equally be a stimulus to native production. A native peasant having acquired certain wants and a certain standard of living will work harder to satisfy those customary wants if he has to produce more to obtain the same money. It will be very difficult for the competition of the plantation oil to eliminate him." *Ibid.,* p. 109.

[21] Cf. two special bulletins of the Agricultural Department by A. C. Barnes: *Chemical Investigations into the Products of the Oil Palm,* and *Mechanical Processes for the Extraction of Palm Oil;* 1924 and 1925, respectively.

[22] Cf. Vol. I, p. 870.

[23] Cf. Vol. I, p. 871.

[24] For the same problem in Sierra Leone, cf. Vol. I, p. 868.

his land and his labor. While one or two plantations may not in themselves affect the situation in Nigeria, they may be the entering wedge which will eventually make the system widespread. The demand for plantations on the West Coast has been strengthened by the comparative success of the white settlement or plantation school in East Africa.[25]

5. *Produce Inspection*

The Nigeria Government has already introduced what is probably a unique system for the inspection of cotton. All cotton for export must be sold at markets established in gazetted cotton districts. No cotton can be exported without a certificate obtained from a cotton *mallam* or native inspector at these markets.[26] In granting these certificates, the inspector grades cotton into a number of classes according to quality. Grade A now brings a premium in the London market; apparently it is higher grade cotton than the Uganda product. This system of markets thus improves the quality and also enables the native farmer, if he wishes, to sell directly to agents of the exporter who visit these markets—which obliges middlemen to limit their profits to a reasonable margin.[27] There are 90 cotton markets in the northern provinces and 20 in the south.[28]

Some system of improving the quality of groundnuts, which now contain much foreign material, is desirable. In the absence of an official grading market, the European trader now pays no more for high grade than for poor products. There is some discussion of limiting the time of the buying season to prevent natives from pulling crops before they are ripe.[29]

The Agricultural Department has attempted also to improve the quality of cocoa by building demonstration fermentation houses where native growers pay ten shillings a ton to have their cocoa fermented. The policy is to have natives, after seeing this demonstration, build their own houses. About a thousand of the forty-four thousand tons of cocoa produced in Nigeria are treated in these houses. The government sees to it that this cocoa is sold to traders at a premium of four to five pounds a ton over the price or ordinary cocoa.[30]

So satisfactory has the system of cotton inspection proved, that the government has enacted a Control of Markets Act, which places all export produce under government inspection. The Agricultural Department

[25] Cf. Vol. I, p. 539.
[26] Cotton Export Regulations, 1924, *1926 Supplement*, p. 261.
[27] *Annual Report of the Agricultural Department*, 1924, p. 5. The government plans to limit the number of ginneries as in Uganda, when they become too numerous.
[28] *Gazette*, 1926, pp. 516-521. [29] For this attempt in Senegal, cf. Vol. II, p. 47.
[30] *Annual Report of the Agricultural Department*, 1925, p. 9.

wished to have this inspection and grading take place in native markets as in the case of cotton. But the opposition of European traders to this plan was so great that a compromise was finally reached under which inspection takes place in trading warehouses. Officials doubt whether such inspection will be as effective as that carried out in the country.

In many other ways, the Nigerian Agricultural Department is attempting to aid native agriculture. It already has eight experimental plantations, and it plans to put a plantation and an agricultural officer in each of the important agricultural provinces. The Estimates provide for twenty-six superintendents of agriculture.[31] The Nigeria Agricultural Department does not assume that native methods of cultivation are all wrong. The first task of these plantations is to find out what these methods are, before attempting to improve them. The department is also training native agricultural instructors at its headquarters at Ibadan. The visitor who sees these various activities comes to believe that the Nigerian agricultural service is one of the most effective in Africa.

[31] *Nigeria Estimates,* 1926-27, p. 13.

APPENDIX—NIGERIA

XVI. Nigeria Labor Legislation

APPENDIX XVI

Nigeria Labor Legislation

In case of a dispute between employers and employed, the "party feeling aggrieved may make a complaint to the court." If it appears that the party complained against is about to abscond, the court may cause him to be arrested ". . . unless he find security to appear and answer the complaint, and abide the decision of the court thereon." Among other things, the court may award damages for any breach of contract, and "it may, in place either of the whole of the damages or some part thereof . . . direct the party committing such breach, . . . to find security to the satisfaction of the court for the due performance of so much of his contract as remains unperformed, and, if the party neglect or refuse to find security, . . . it may commit him to prison until he finds it, but the term of imprisonment shall not exceed three months." Thus, the Nigerian ordinance provides for a modified form of penal sanction. Sections 23-25, Chap. 70, *Laws of Nigeria.*

The regulations issued under the Master and Servant Ordinance provide that "No deduction shall be made from the wages of a laborer for housing, fuel, medicine, or medical attendance to the satisfaction of the Resident." (Sec. 24.) Moreover, no claims against a laborer on account of advances shall be enforceable. (Sec. 21.)

When the employer has agreed to supply the laborer with food, the food supplied shall not be less than the following scale:—

(a) twelve pounds of grain (including rice) per week; and
(b) two pounds of beans or groundnuts per week; and
(c) six ounces of salt (or two ounces of salt and two pounds of green food per week). (Sec. 25.)

Accident compensation is as follows:

(a) death—not exceeding ten pounds;
(b) incapacitation for earning living—five pounds;
(c) permanent decrease in wage earning capacity—three pounds. (Sec. 30.)

These rates are considerably lower than in South Africa.

According to the Safe Mining Regulations, issued under the Minerals Ordinance, Chap. 93, "No woman or girl, and no boy under the age of fourteen years, shall be employed in any underground working." (Sec. 19.)

The employment of women in night work, with certain exceptions, is prohibited by the Employment of Women Ordinance, 1912, Chap. 72.

SECTION VIII

THE GOLD COAST

CHAPTER 48

THE ASHANTI WARS

FROM the institutional standpoint, the peoples who inhabit the Gold Coast are probably the most interesting and advanced in Africa. Most of them belong to the Twi-speaking or Akan group, divided into the Fantis and Ashantis. The first inhabit the coast districts and the latter live in the interior territory which bears the name of Ashanti. That the Fantis and the Ashantis are related is evidenced by the fact that they have similar laws, institutions, religions, and languages.

Originally occupying the northern part of what is now the Gold Coast, it is believed that the Akan people were gradually driven south by lighter-skinned peoples, and took up their abode in the forests which gave them protection against the cavalry attacks of the invaders. The reason for the separation of the Akans into the present groups of Fanti and Ashanti is not definitely known.[1] But the division, as we shall see, has been unconsciously accentuated by British policy.[2]

1. *Native Institutions*

In addition to the Akan people, there are smaller groups, such as the Awunas and the Gas, the latter inhabiting Accra. In the Northern Territories, remnants of the old kingdoms of Mossi[3] and Dagomba are found, along with the ubiquitous Hausa and Fulani.

An Akan village consists of the three estates of the chief, the elders, and the people. Each Akan chief occupies a traditional seat called a "stool," to which great ceremonial importance is attached. Such a "stool" is the symbol of the nation and the ignorance of a British Governor as to its true significance was one of the causes which led to the Fifth Ashanti War.[4]

In addition to belonging to a village, Akan men not holding special

[1] Several reasons are conjectured by W. W. Claridge, in *A History of the Gold Coast and Ashanti,* London, 1915, Vol. I, p. 5.

[2] For administrative purposes, the Gold Coast is divided into the Gold Coast Colony, Ashanti, and the Northern Territories. While ordinances for the Colony are made by the Gold Coast Legislative Council, ordinances for the two territories are enacted by the Governor.

[3] For the Mossi kingdom in the French Upper-Volta, cf. Vol. I, p. 902.

[4] Cf. Vol. I, p. 790.

rank also belong to "companies," which were military in origin. In parts of the Gold Coast, these companies have especial flags and codes; and in the past, insults exchanged between members of different companies were a frequent source of fighting.[5]

Generally, Akan villages owe allegiance to some Paramount Chief, called the Omanhene, who does not, however, interfere with the conduct of internal village affairs. Each head chief is assisted by an important official, called the "linguist." Resembling the old English bard, the linguist is the custodian of the history and customs of the tribe, and acts as the mouthpiece of the chief on all ceremonial occasions. As stated above, the "stool" of the Omanhene is the symbol of the state.

While the office of chieftainship is not strictly hereditary, there are certain families from which the chief must be taken, and among the Akans the female line of descent is usually followed. Most African tribes find that getting rid of a chief before he dies is ordinarily a bloody business. But when an Akan chief misconducts himself he may be destooled merely by the vote of the persons who elected him—a peaceful and democratic process. While this process checks revolution, it has given to native institutions on the Gold Coast an instability which they do not have, for example, in Nigeria, where the Emir remains in office in his own right for life. This instability has become more marked with the growth of wealth which has increased intrigue among members of the tribe, with the result that destoolments grew to an alarming extent up to 1924, as the following figures show:

Period	*Number of Destoolments*
1904-1908	7
1909-1913	23
1914-1918	38
1919-1924	41[6]
1925-1926	3

[5] In some areas, villages are grouped into subdivisions of the native state, each having military titles, such as the left or right wing. These subdivisions are in turn under the chief of the state, called the Omanhene.

[6] "In the Central Province, practically the whole of the Paramount Chiefs, with exceptions that can be numbered on the fingers of one hand, have all been recently destooled or are on the point of being destooled by their people." Statement of the Governor, *Gold Coast Colony Legislative Council Debates,* Session 1925-1926, February 3, 1925, pp. 127, 131. Cf. also *A Review of the Events of 1920-1926,* The Gold Coast, by the Governor Sir F. G. Guggisberg, p. 244. An insight into the Accra situation is given by the *Gold Coast Independent,* October 30, 1926, which says, "Although we are anxious that it (Accra) should retain some of the ancient characteristics and the aborigines should maintain their time-honoured institutions compatible with advancing civilization, yet it must be obvious . . . that the way in which things are progressing in connection with what is known as the

Many cases have occurred in which blackmailing cliques have, by illegal methods, destooled chiefs to whom the majority of the tribe still adhered. In order to prevent such destoolment and disorder, the government now appoints commissioners to determine, through a hearing, whether or not a chief has been elected or destooled according to native law.[7] By this means, the British Administration is endeavoring to uphold native constitutionalism; and further safeguards are being established in the Native Administration Ordinance of 1927 whereby, in the future, a strict regard to native customary law will be required before a destoolment can be undertaken or become effective. Suitable punishments are also prescribed for persons infringing upon native customary law in such matters.

Connected with the stool of the Omanhene is a custom of peculiar importance, called the "oath." The oath is usually the name of a place where a disaster had befallen the state. The chiefs prohibit the use of the words in the oath at the price of certain penalties, which formerly included even death in some cases. If one side in a dispute invokes the oath, the dispute should (but need not) go to the chief occupying the stool to which the oath belongs. The chief then decides the dispute and the loser must pay the penalty attached to the oath. Having invoked the oath, the parties to a dispute may take no action until the judgment of the chief is made. This semi-superstitious sanction thus obliges parties to invoke a peaceful method of settlement when in case neither party invoked the oath, they might have shed blood.

While the tribal organization of the other peoples of the Gold Coast is not as compact as that of the Akan people, they also have Paramount Chiefs whom they call by the name of Fia, Mantse, or Konor, etc., and these tribes also invoke oaths, which apparently originated with the Akan. At the present time, the government recognizes sixty-one Paramount Chiefs

Native administration is far from being healthy. Judging from the manner in which the Ga Mantse is alleged to be destooled annually, it seems that this exalted position, which should receive all respect and service, is being treated like a cheap toy. The latest lightning destoolment, which took place on the 26th instant, is the most amazing of them all. To judge by the way in which it was staged and all that took place, we are impressed with the fact that cherished aboriginal institutions are not receiving the measure of support which they deserve. These things make laughing stock of us in the eyes of foreigners. What is surprising is the interest which some of the so-called educated Natives take in these miserable demonstrations from selfish motives, and the spirit of hatred and spitefulness which they engender in the minds of the illiterate and unsophisticated aborigines."

[7] Chiefs Ordinance, 1904, Chapter 80, *Laws of the Gold Coast Colony*, 1910, p. 782, hereafter cited as *Laws*. Any chief elected in accordance with native custom may appeal to the Governor for confirmation. Until confirmed, such chief apparently has no judicial standing. District commissioners may hold an inquiry as to the detention of stool property by a deposed chief, and require its surrender. Stool Property Detention Ordinance, 1904, Chapter 81, p. 785. *Ibid.*

in the Gold Coast proper, twenty-five in the Ashanti, and twenty-five in the Northern Territories.[8]

2. *The Ashanti Invasions*

The Greeks, Phœnicians, and Carthaginians were the first foreigners to come into contact with the Gold Coast in ancient times. In 1471, a Portuguese discovered the gold from which the territory has since taken its name. Ten years after this, the Portuguese constructed the famous Elmina fort—both Christopher Columbus and Bartholomew Diaz forming part of their expedition. During the sixteenth century, English traders put in their appearance, and soon got to fighting with the Portuguese over the trade in gold, ivory and slaves. In the seventeenth century, Dutch traders drove out the Portuguese from several of their forts which the Dutch held down until the latter part of the nineteenth century. The Swedes, not to be outdone by other traders, also occupied territories, and are believed by some to have built the castle at Cape Coast in 1652.

Meanwhile, these operations of European adventurers were calmly surveyed by Fanti tribes who lived along the coast and stretched in toward the interior. The Fantis were organized into a loose alliance, under the nominal leadership of the King of Abra. Confronting them was the kingdom of Ashanti, led by the king of Kumasi. Europeans first heard of this kingdom when it roundly administered a defeat to the native state of Denkera, about 1700. In this war, the Ashantis captured a "note" or agreement in which the Dutch had promised to pay a monthly sum to the chief of Elmina (who had transferred the note to the Denkera people) for the land upon which the fort had been built. At the request of the King of Ashanti, who now held the note, the Dutch agreed hereafter to pay the rent to him, which the king later declared was an admission by the Dutch that the Ashantis owned the ground at Elmina.

The Ashantis were a highly intelligent people, possessing great courage as well as a remarkable military organization. For years, they had been accustomed to trade with Europeans on the coast. In contrast, the Fantis were a comparatively weak people who, under the influence of jealousy and greed, attempted to monopolize the coast trade and force the Ashantis to deal through the medium of extortionate middlemen. Partly because of this, and partly because of the inevitable friction which arises between neighboring tribes, a conflict arose which without doubt would have led to the supremacy of the Ashantis over the whole of the Gold Coast and the

[8] There have also been twenty members of the Kumasi Council of Chiefs, but this body is now abolished. For a complete list of these chiefs and the subdivisions, cf. *The Gold Coast Chiefs' List,* 1924, Accra, 1925.

union of the Ashantis and Fantis into a single Akan nation, had it not been for the support which the British gave to their allies, the Fantis.[9] In taking this position, the British really acted against their own economic interests, since the Ashantis were fighting for the right to trade with the west.

The first Ashanti War broke out in 1803, when the Fantis were saved from defeat only by the intervention of the English who, notwithstanding such interventions, did not claim any jurisdiction over the territory outside of the ground occupied by the British forts. When the King of Ashanti a few years later—in 1819—asked the British to intervene in a dispute he was having with another tribe, they declined to do so, despite promises given by the government in a previous treaty. In fact, throughout this whole period, the policy of the British authorities was marked not only by a timid vacillation, but by an unscrupulous disregard for their obligations.[10] Affairs were made worse by the failure of the British Government to ratify a treaty in which the Ashantis agreed to accept a British protectorate on condition that the British recognize the Ashanti dominion over the Fantis. Thus another opportunity of putting the relations between the Ashantis and the coast upon an orderly basis was lost.

At this time, the Gold Coast forts were governed by the Africa Company of Merchants. So poorly did they manage affairs that in 1821 parliament transferred these territories to the government of Sierra Leone. The new Governor, Sir Charles M'Carthy, at once rushed into another (the Fourth) Ashanti War, in 1822, spurning all offers of negotiation with the "enemy." The war which followed resulted in a decisive defeat for the British and the loss of the Governor's life. It convinced the Ashantis of their superiority over the white man, and helped to create among the British "that feeling of unreasoning and bitter hostility towards Ashanti that has existed ever since." [11] But the British finally drove the Ashantis back to Kumasi; and after administering a disastrous defeat to them at Dodowa in 1826, the British refused to pay the rent stipulated in notes which the king of the Ashantis had held. Henceforward, the British Government regarded itself as the full owner of the territory upon which the forts had been built. On account of the expenses of these wars, the home government now decided to abandon the Gold Coast. But the British merchants, who found the territory a valuable source of trade,

[9] This is the opinion of a semi-official history: "Nor can there be the least doubt that that kingdom would, before the close of the nineteenth century, have included the whole Gold Coast, had not the seaboard tribes been assisted and protected by the Europeans, who feared their settlements and trade might be endangered." Claridge, *cited*, Vol. I, p. 181.

[10] Cf. *ibid.*, Vol. I, pp. 304, 316.

[11] *Ibid.*, Vol. I, p. 354.

made a protest which led the government to hand over the forts to a committee of three London merchants nominated by the government, which made them a grant of four thousand pounds a year. Under the remarkable administration of Captain George MacLean, the first Governor under this régime, peace was made with the Ashanti in a treaty of 1831.[12]

3. *The Resolution to Withdraw*

But following MacLean's death, the administration again fell into unintelligent hands, and following the refusal of the British to extradite a runaway prisoner of the king of Kumasi, which it had agreed to do under the treaties,[13] the Fifth Ashanti War broke out in 1863. The British failed utterly in their attempt to repel the Ashanti invasion which ensued, and the prestige as well as the prosperity which had come to them under MacLean's administration was again destroyed. In 1865, the home government sent out a special commissioner to determine whether the Gold Coast should be abandoned. But he was met with the entreaties of the Fantis who feared that they would be destroyed if the British withdrew. Consequently, a Select Committee of the House of Commons resolved "that it is not possible to withdraw the British Government, wholly or immediately, from any settlements or engagements on the West Africa Coast. . . ." It stated, however, that "all further extension of territory or assumption of government, or new treaties offering any protection to native tribes," would be "inexpedient," and that the object of British policy "should be to encourage in the natives the exercise of those qualities which may render it possible for us more and more to transfer to them the administration of all the governments, with a view to our ultimate withdrawal from all, except, probably, Sierra Leone."[14] As a result of the recommendations of this committee, the Gold Coast again became a dependency of Sierra Leone.

In 1872, the British acquired the Dutch possessions on the Gold Coast, including the fort of Elmina. But the Ashantis claimed that in view of the fact that the Dutch had paid rent to them for the Fort upon the basis of the Denkera note, the Ashantis should have been consulted in regard to the transfer, and that they should continue to receive rent, but as the Dutch Government had assured the British that the payments in question were not by way of rent but in order to encourage commerce, the British refused to recognize these claims.[15] An official historian says that there was small

[12] Claridge, *cited,* Vol. I, p. 409. [13] *Ibid.,* Vol. I, p. 508.

[14] Report from the Select Committee on Africa (Western Coast), No. 412, *Reports from Committees,* Vol. V (1865), p. iii.

[15] In a note of Feb. 28, 1871, the Dutch Minister for Foreign Affairs wrote to the British Minister, "La Compagnie des Indes-Occidentales, à laquelle ces forts

excuse "for the ready credence they now gave to this ingenious explanation." [16] As a result of this dispute, the Sixth Ashanti War broke out in 1873. Realizing from the past that they could not rely upon Fanti troops, the British brought out Europeans, apparently the first to serve in tropical Africa, under the command of Sir Garnet Wolsely. After a six months' campaign, the British succeeded in reducing Kumasi, and in the treaty of Fomana, which restored peace, the king promised to pay an indemnity of fifty thousand ounces of gold, to renounce all tribute or homage from the kings formerly subject to his kingdom, and to renounce his claims over Elmina. In return, the British agreed that there should be freedom of trade between Kumasi and coast.[17]

Having demolished the strength of the Ashanti kingdom, the British, instead of establishing a direct administration, once more resorted to the policy of non-interference. Meanwhile a dispute over the succession arose, which finally resulted in the appointment of Kwaku Dua II as King and later, at his death, of Prempeh as Kwaku Dua III. But the country was in such a difficult financial situation that he was obliged to make an unprecedented request to the British Government for a loan of eighty ounces of gold to pay the expenses of enstoolment.[18]

In the opinion of a British historian, "England's policy toward Ashanti since 1874 had signally failed . . . and had been Ashanti's ruin. The destruction of the central controlling authority in Kumasi, and the weakness of the government in declining all further responsibility and refusing to interfere for the preservation of order, had caused years of civil war, during which the suffering and loss of life must have been immeasurably greater than that attending the occasional wars of united Ashanti, while the naturally evolved civilization and arts of the country had been neglected and fallen into decay. . . . The continually disturbed state of the country, moreover, made the roads so unsafe that all communication with the interior was constantly being cut off, and the once flourishing trade had been virtually extinguished." [19]

appartenaient, avait accordé un paiement mensuel de deux onces de poudre d'or (fl. 960 par an) au roi de Denkera, non pas comme tribut mais comme cadeau pour encourager le commerce avec les habitants de l'intérieur . . . Il est donc évident que le roi d'Ashantes n'a pas le moindre droit à faire valoir sur les forts d'Elmina, et il n'a probablement mis sa prétention en avant que pour faire surgir des difficultés et tâcher de prévenir la cessions des possessions néerlandaises à la Grande Bretagne." *Correspondence Relative to the Cession of the Dutch Settlements to the British Government.* C. 670 (1872), p. 42.

[16] Claridge, *cited,* Vol. I, p. 602.

[17] The king also promised to use "his best endeavours to check the practice of human sacrifice . . . with a view to hereafter putting an end to it altogether." The text of the treaty is given in *British and Foreign State Papers,* Vol. 65, p. 471.

[18] Claridge, *cited,* Vol. II, p. 332.

[19] *Ibid.,* Vol. II, p. 351.

At last realizing that steps should be taken to prevent the disintegration of the kingdom, the British suggested to King Prempeh that he accept a British Resident. The Ashantis had actually made the same request of the British a number of years before; but now, embittered and disillusioned by British policy, they flatly declined the request.

Finally, the British sent the King an ultimatum accusing him of violating the treaty of Fomana by encouraging the practice of human sacrifice, and demanding that he receive a resident without further delay. Upon the failure of Prempeh to reply, a military expedition moved on Kumasi in 1896. This time, however, the Ashantis, whose spirit was almost broken, did not put up a struggle. King Prempeh voluntarily surrendered to the British who promised not to depose him provided he pay an indemnity of fifty thousand ounces of gold. In a solemn gathering, Prempeh took the crown from his head and asked the protection of the Queen of England. The Governor declared, however, that the indemnity must be paid. The King replied that he could pay only six hundred and eighty ounces and would pay the balance in instalments. At this, the Governor ordered the King, the Queen Mother, the King's father, his two uncles, his brother, and several others to be seized and taken as prisoners to the coast—a demand which stunned the people. Claridge stated that the immediate payment of an indemnity of this size was "impossible." [20] It is clear that the Governor went outside his instructions in demanding the payment of this large sum, and his attitude in the matter "has been a cause of dissatisfaction with them [the Ashantis] even since, and they still complain bitterly of what they describe as, and fully believe to be, an act of deliberate treachery." [21]

After being taken to Elmina and Sierra Leone, Prempeh and his followers were finally deported to the Seychelles Islands where they remained until 1922.

4. *The Golden Stool*

Prempeh having gone, the golden stool which remained the only symbol of the Ashanti nation was hidden away. The anthropologist of the Gold Coast Government says, "The Golden Stool was and is far more than that [the sign of the kingship]; it is the shrine of the *sunsum* or soul of this people, something for which they have fought and for which, I believe, they would fight again. . . . I do not think we realize what a power, working for us, this stool has been, hidden away as it was; or that we fully grasp the results which I believe might follow were we ever to take it from this people. I believe it will be found to be the case

[20] Claridge, *cited,* Vol. II, p. 421. [21] *Ibid.*

that all the obedience, the respect, and great loyalty we have been given by the Ashanti is given through and by reason of the Golden Stool." [22]

In 1899, an Ashanti boy came to Accra and offered to reveal the hiding place of the stool. The Governor, Sir Frederick Hodgson, thereupon sent his private secretary and a detachment of Hausa soldiers to look for the sacred object. The attempt failed and the Governor decided to proceed to Kumasi to find the stool and to impose taxation upon the Ashantis to pay for the cost of maintaining the garrison there. On arriving at Kumasi, the Governor held a meeting at which he asked: "Where is the Golden Stool? Why am I not sitting on the Golden Stool at this moment? I am the representative of the paramount power; why have you relegated me to this chair? Why did you not take the opportunity of my coming to Kumasi to bring the Golden Stool, and give it to me to sit upon?" [23] The Ashantis were so angered at what they regarded to be sacrilege that they embarked upon the last Ashanti War which, after great hardship to the British forces, finally led to the overthrow of the Kingdom of Ashanti and its annexation by the British Government.

Since then, Ashanti has been administered separately from the Gold Coast proper, although both have the same Governor. The British had learned their lesson, and they no longer demanded the surrender of the stool. Meanwhile, the people managed to keep its whereabouts hidden, until 1921. At that time, native road workers discovered its hiding place in the Nkoranza district, whereupon several Ashantis, including one of the chiefs who was a guardian of the stool, stripped it of its gold, which they sold. When the people discovered what had happened, the nation was thrown into tumult; and the government immediately arrested the chiefs concerned. The government told the Council of Kumasi Chiefs that it, the government, made no claim to the stool, that it was the property of the nation; and it permitted the Kumasi Council of Chiefs to try the culprits. This wise action in righting the mistake made in 1900 undoubtedly prevented an outbreak. The deep indignation of the Ashantis over this desecration was shown by the fact that the Council imposed the death penalty on the offenders. Believing that this penalty was too severe and would lead to internal trouble, the government modified this sentence in favor of perpetual banishment.

At the time of the marriage of Princess Mary, the Queen Mother of Ashanti presented a replica of her own silver stool to the wife of the Governor, to be transmitted to the princess as a wedding gift. Upon this

[22] R. S. Rattray, *Ashanti,* Oxford, 1923, p. 292.
[23] *Correspondence relating to the Ashanti War,* 1900, Cd. 501 (1901), pp. 16-17.

occasion, the Queen Mother said, in the dignified and quaint language which characterizes the speech of many African peoples: "It may be that the King's child [Princess Mary] has heard of the Golden Stool of Ashanti. That is the Stool which contains the soul of the Ashanti nation. All we women of Ashanti thank the governor exceedingly because he has declared to us that the English will never again ask us to hand over that Stool. This stool we give gladly. It does not contain our soul, as our Golden Stool does, but it contains all the love of us Queen Mothers and of our women. The spirit of this love we have bound to the stool with silver fetters, just as we are accustomed to bind our own spirits to the base of our stools." [24]

The British have not only reversed their policy with respect to the Golden Stool, but also in regard to the deportation of Prempeh. In 1923, Prempeh wrote to his friends in the Gold Coast that the British had allowed the king of Somaliland to return home and that he, Prempeh, wished to come back to the Gold Coast, if not as king of the Ashantis, as a private citizen. After careful consideration and in view of the exemplary conduct of the chiefs and people during the anxious days of the discovery of the Golden Stool in 1921,[25] the government authorized the return of Prempeh and his following. Upon his return, he was given a tremendous ovation by his former subjects. For three years, he was merely a private citizen, participating in the Council of Chiefs of Kumasi. Both the Ashantis and he wished, however, to see their former kingdom restored. In view of its policy to develop native authority, the Gold Coast Government reinstated Nana Prempeh as the Omanhene of Kumasi in November, 1926, an action which, *The Gold Coast Leader,* an African paper, referred to as a "gracious act." By this means, the British Government attempted to wipe out the faults of the past.[26]

5. *The Bond and the Poll Tax Ordinance*

For more than a hundred years, the British did not attempt to govern the Gold Coast beyond gun-shot of the coastal forts which they occupied —a policy which largely accounts for their policy of non-interference with matters affecting the interior tribes. Disputes with these tribes were, however, continuous, and following the Ashanti treaty of 1831, Governor MacLean made up his mind to establish some kind of control. Consequently, he stationed a soldier in each of the principal towns along the coast. Likewise he established a court of which he was judge, sitting

[24] *The Gold Coast Handbook,* hereafter cited as *Handbook,* 1924, p. 32.
[25] Cf. also the questions in the *Legislative Council Debates,* 1923-1924, p. 295.
[26] Cf. editorial of November 27, 1926. Cf. also the governor's speech, *ibid.,* December 11, 1926.

usually with chiefs in Cape Coast Castle. This court applied Akan law except where the Governor regarded it as inhuman. While there was no legal basis for the exercise of this authority until the passage of the Foreign Jurisdiction Act in 1843, the people supported the régime in defiance of some of their chiefs, because it maintained order and administered justice more satisfactorily than the native system.

MacLean's court, however, had been irregular. At the suggestion of a Select Committee of the House of Commons in 1842 [27] the new Governor, Commander Hill, made a treaty with the chiefs, usually called the Bond of 1844, in which they acknowledged the power and jurisdiction of Her Majesty the Queen and declared that the first object of law was the protection of individuals and property. Human sacrifices and other barbarous customs were declared illegal.[28] Shortly thereafter, the British Government created the position of judicial assessor.

Inasmuch as the customs had failed to provide sufficient revenue, the British Government, still confined to the four forts, declared that the people should contribute something in return for the protection which they now received. In 1852, the Governor induced the chiefs to organize themselves into a Legislative Assembly, whose first act was the adoption of a Poll Tax Ordinance, which required the payment of one shilling from each man, woman, and child residing in districts under British protection. This tax was to be collected by British officials assisted by the chiefs, who in return would receive annual stipends from the government. The revenue from the tax was to go to native education, improvement of the judicial system, communications, and medical aid.[29] Notwithstanding the opposition of the "scholar" or semi-educated class, the Governor by this means secured the consent of the chiefs to the tax. The British entrusted its collection to native agents, with the idea of preventing misappropriation by the chiefs. But the agents proved to be even greater sinners—a fact which caused more indignant protests from the people than if the thefts had been committed by the chiefs themselves. In 1854, the

[27] Cf. "West Coast of Africa" (551), *Reports from Committees*, Vol. XI, 1842, pp. v-vi.

[28] "Africa, Western Coast" (412), *Reports from Committees*, Vol. V, 1865, p. 419.

[29] "The Agreement called the Poll Tax Ordinance" first declared, "That this meeting, composed of His Excellency the Governor, his council, and the chiefs and head men of the countries upon the Gold Coast, under British protection, constitutes itself into a legislative assembly with full powers to enact such laws as it shall deem fit, for the better government of those countries. . . . That this assembly be called the Legislative Assembly of native chiefs . . . and that its enactments sanctioned and approved of by the Governor, shall immediately become the law of the country, subject to the approval of Her Majesty the Queen, and be held binding upon the whole of the population . . . being under the protection of the British Government." *Ibid.*, p. 420.

chiefs and people publicly refused to pay the tax, and when European officials attempted to collect it, the whole of the eastern district rebelled. The authorities made no further efforts at collection, and in 1866 the Poll Tax Ordinance was formally repealed. The Gold Coast alone of the colonies of tropical Africa exacts no direct taxes from its people up to the present time.

In order to obtain the Dutch forts, the British made a treaty in 1867 granting to the Dutch a portion of the Gold Coast west of the Sweet River. The proposed cession would have divided up a number of tribes and placed many Africans under the Dutch whose reputation at that time was not of the best.[80] To resist this exchange of territory, some of the chiefs held a great council loosely called the Fanti Confederacy; and as a result of their protest, the treaty was withdrawn. Five years later, the Dutch agreed to withdraw altogether.

6. *The Fanti Confederation*

Inspired by the idea of self-government, which they had derived from the House of Commons resolution of 1865, and moved by a desire to raise a united front to the Ashanti invader, the chiefs and educated natives, without consulting the British authorities, held a meeting in 1871 at Mankesim, where they drew up an elaborate constitution creating the Fanti Confederation. A king-president of the Confederation was to be elected "from the body of kings." He should govern the country with the aid of a ministry of five officials, representing the chiefs and the educated natives. The objects of the Confederation were defined in detail. To assist the king and council, a representative Legislative Assembly was to be established, composed of two representatives from each district, appointed by the king, one being an educated native and the other a chief. This assembly would be responsible to the king and chiefs of the confederation who should hold an annual meeting. At this meeting, the king-president should sanction all laws passed by the representative assembly, "so far as they are compatible with the interests of the country."

The constitution provided for the establishment of a number of national schools and for roads "fifteen feet broad, with good deep gutters on either side." A capital of the Confederation should be selected. Moreover, provincial assessors should hold courts in each district, aided by chiefs.

Appeals from the assessors could be taken to the king and executive council, and eventually, to the British courts. The assessors should also

[80] It appears that the chief reason why the Dutch remained on the Coast was to purchase from the Ashantis slaves whom they sent to Java to serve as soldiers. Claridge, *cited,* Vol. I, p. 558.

see that the schools and roads were maintained and that all children between the ages of eight and fourteen attended school. These provincial assessors apparently were to be educated natives, who wished to rule the chiefs.

Confronted by this attempt of the natives to establish a virtually independent government, the British were placed in a difficult position. They had repeatedly refused to take any responsibility for the administration of the country outside the forts, from which a committee of Parliament had recorded its desire to withdraw.[31] How could the administration, therefore, oppose the efforts of the natives to set up a government of their own? Brushing these considerations aside, the acting administrator clapped the ministry of the newly-formed Confederation into jail, and wrote to the Governor of Sierra Leone, who was at that time responsible for the Gold Coast, that "this dangerous conspiracy must now be destroyed for good, or the country will become altogether unmanageable." [32]

While this brusque action was criticized by the Secretary of State, a later administration issued a proclamation stating that the government would "prosecute any person or persons committing any overt acts on the part of the said Confederation, especially the levying of taxes, assumption of judicial power, and molestation of peaceful inhabitants following their lawful calling." [33]

As a result of this opposition, the Confederation reached a stalemate. The only symbol of the Fanti nation to-day is the Mfantsipim School, maintained entirely by native funds. The attempt at confederation, however, did succeed in making the British realize that the time would come when they must organize a wider administration or withdraw. The problem was studied by Mr. D. P. Chalmers, the chief magistrate, who, in several memoranda (1872), proposed that the country should be governed by "utilising, regulating, and controlling the power of the hereditary chiefs. . . ." [34]

He went on to say: "Although it be in vain to look for much improvement in the character of the Native courts if left to their own guidance,

[31] In 1867, a Cape Coast chief, named Aggery, challenged the jurisdiction of the British beyond the Castle Walls, as a result of which he was deported to Sierra Leone. Cf. Return to House of Commons for correspondence relating to the "arrest and deportation to Sierra Leone, without trial, of King Aggery of Cape Coast," 1867, Vol. LXIX, *Accounts and Papers,* p. 73.

[32] "Correspondence relative to the Fanti Confederation" (No. 171), *Accounts and Papers,* 1873, Vol. XLIX, p. 2. The constitution of the Confederation is printed on pp. 3-9.

[33] *Ibid.,* p. 44. The government announced, however, that when the country became quiet, the home government would be ready to consider the formation of a native council of chiefs.

[34] *Ibid.,* p. 101.

yet that gradation of authority which is found to exist, by which each man is in a measure answerable to his immediate superior, affords an organisation which seems capable of being usefully employed for purposes of jurisdiction. . . ."

By this time the British had decided that a more firm control was necessary; and following the defeat of the Ashantis in the war of 1874, the Gold Coast and Lagos were merged into a single colony. A Legislative Council was established which enacted a Supreme Court Ordinance in 1876. The Gold Coast became a separate colony in 1886. Doubts remained, however, as to what part of the area which the British administered was a "colony" and what part a "protectorate." These doubts were set at rest by an Order in Council, 1901, which declared that the parts of the Gold Coast hitherto not included within his Majesty's Dominions "are hereby annexed."[35] In September, 1901, an Order in Council also annexed Ashanti. Another order of the same date placed the Northern Territories under the protection of the Crown.

[35] *Statutory Rules and Orders,* 1901, p. 510. This annexation was preceded by the negotiation of some thirty-seven treaties of protection and friendship with local kings between 1895 and 1897. *Handbook, cited,* p. 533.

CHAPTER 49

NATIVE POLICY

1. *The Native Jurisdiction Ordinance*[1]

In 1878, the government enacted the Native Jurisdiction Ordinance, which was supplanted, however, by the Ordinance of 1883. This ordinance was amended in 1910 and remained in force as the basis of the system of administration, which rests upon the principle of native authority.[2] The Native Jurisdiction Ordinance is silent regarding the appointment of chiefs, and thus recognizes that the right to appoint a chief is not vested in the British Government but in the native institutions. But according to the Chiefs Ordinance, 1904, the Governor may confirm election and installation and thereby render such a chief's position unassailable in a court of law.[3] Moreover, the Governor may also suspend or depose any chief who shall appear to have abused his power.

2. *By-laws*

Subject to the approval of the Governor, the chiefs may issue by-laws upon fifteen different subjects, such as the construction of roads, the care

[1] Chapter 82. *Laws*, p. 788.

[2] The Gold Coast proper is divided up into the Western Province with six districts; the Central Province with four districts, and the Eastern Province, with eight districts. At the head of each province is a provincial commissioner, while at the head of each district is a district or assistant district commissioner.

Ashanti is divided into an Eastern and Western Province, each with four districts; while the Northern Territories are divided into a Northern and Southern Province, the first having four and the latter five districts. There is a chief commissioner for Ashanti and one for the Northern Territories, both responsible to the Governor at Accra.

The total African population of these three areas is 2,296,400.

The political establishment of the Gold Coast calls for eighty-nine officers, of whom forty-four are assigned to the Gold Coast proper, twenty-three to Ashanti, and twenty-one to the Northern Territories, an average of one officer to every 25,800 which means a comparatively large administrative staff. On his first appointment, a political officer is obliged to give three or four afternoons a week to the study of a native language. Before his appointment is confirmed, he must have passed a qualifying examination in one of the following languages: Twi, Ga, Eve, Mossi, Dagomba, etc. *Minute, Gold Coast Political Service*, 1922.

The Gold Coast Government has also appointed an anthropologist, Captain R. S. Rattray, who devotes his whole time to the study of African customs and institutions.

[3] Chiefs Ordinance, 1904, Sec. 29.

of unoccupied lands, and the suppression of fetish worship. A person guilty of the breach of any such by-law may be punished by the native courts by a fine not exceeding five pounds and two sheep. In case he does not pay the fine, he may be imprisoned for one month.[4]

One of the delicate issues between the British Government of the Gold Coast and the native states is whether a given law, usually involving a police matter, shall be enforced by native by-laws and courts, or by legislation and the courts of the British authority. Disputes on this subject have arisen recently in regard to plant-disease and forestry legislation. Within the last few years, disease has increased among the cocoa plants—and cocoa growing is practically the only native industry in the territory—to an alarming extent. In 1916, the government warned the chiefs that if they did not enact and enforce by-laws providing for the destruction of cocoa pods and for the reporting of disease, legislation would have to be enacted. Practically all of the chiefs thereupon enacted by-laws to this effect. But, according to the Colonial Secretary, the chiefs "almost invariably refrained from applying and enforcing" these provisions. "The chiefs are often themselves glaring offenders, as their decision depends to a large extent on popularity with their people."[5] They are afraid of being destooled. Few if any violations were prosecuted during a period of twelve years. In 1919, a Cocoa Committee was appointed to study the situation, and a majority recommended the enactment of an ordinance. The government, however, bowed to the two native members of the committee who thought that "peaceful persuasion" should be tried for two years more. But at the end of four years—in 1923—the by-laws had not yet been enforced, and it was estimated that twenty per cent of the annual cocoa production was being lost because of disease.[6]

The government thereupon decided that the enactment of a Pest Ordinance was necessary. This brought forth vigorous protests from the Africans, one of whom, a leading chief and a member of the Legislative Council, declared, "The chiefs of this country play a very important part in the administration of this country, and if you declare in this Council that the chiefs are a failure on a simple matter like this, and that in

[4] The texts of various by-laws will be found in Chapter 82, Volume III of the *Laws of the Gold Coast.* A recent example is the Palm-Tree By-law, (*Gold Coast Gazette,* 1924, p. 1105, hereafter cited as *Gazette*) made by the Omanhene of Abura, "with the consent and concurrence of the sub-chiefs, elders, linguist, and councillors of the stool." This by-law provides that no person shall injure any oil palm tree unless he has a permit from the chief. For every palm tree felled for the purpose of making palm wine, two fresh trees must be planted unless there is a tree within five yards.

[5] *Legislative Council Debates,* 1923-1924, p. 374.

[6] It appears that the United States rejected a number of Gold Coast shipments because they contained wormy beans in excess of fifteen per cent.

consequence of that, you deprive them of their existing power by passing this Bill, you will be inflicting a very severe blow at the policy Your Excellency has so definitely enunciated." [7]

Despite the opposition of the African members, and of a conference of Paramount Chiefs, the ordinance was passed. The government also appropriated a hundred thousand pounds to employ fourteen European plant inspectors, and several African cocoa inspectors, to teach plant sanitation to the African farmers. Europeans found it as difficult to achieve results as had the chiefs. The native farmers proved definitely hostile to the intrusion upon their farms. They accused the government laborers of stealing their produce. In order to overcome this opposition, conferences between the farmers and the plant inspectors were held in the fall of 1926. At one of these conferences, a chief said: "The bill is a trap to ensnare us. . . . The bill shall convert us as serfs; the bill deprives us of our legitimate and inherent ownership of our lands. . . ." [8]

So great did the task of plant sanitation become that the government modified its plan. A new system was adopted in 1926 which, instead of placing the whole burden upon government inspectors and government funds, provides that inspectors with labor gangs shall give the farmers demonstrations of the best means of getting rid of pests. The farmers are then obliged to apply this method to their farms. If after six months the inspector finds that this has not been done, he can take action under the ordinance; after twelve months, the inspector can do the work himself, and charge the expense to the native farmer.

In order to recognize the loyalty and ability of those chiefs who really can enforce the system, the government now has established a concurrent jurisdiction, under which district commissioners may refer prosecutions under the ordinance to the Chiefs Tribunals instead of to the British courts. The Governor wishes that eventually full jurisdiction over these offenses shall be conferred upon the native tribunals.[9]

3. *The Forest Ordinance*

Likewise, if the cocoa industry is to be preserved, a large area of the country must be kept under forests in order to retain the moisture necessary for the crop. But uncontrolled shifting native cultivation and European mining operations have been cutting into the forests with the result that they are threatened with extinction. In 1910, an expert pointed out the

[7] *Debates, cited,* p. 426.

[8] Minutes of Conference, *Gold Coast Independent,* October 23 and November 6, 1926.

[9] *A Review of the Events of 1920-1926,* Gold Coast, by the Governor, Sir. F. G. Guggisberg, p. 43.

danger of the situation.[10] In the next year, the government attempted to forestall this danger by introducing and actually passing a Forest Law authorizing the government to establish reserves. As in 1897,[11] the Aborigines' Rights Protection Society sent a delegation to London to protest against the legislation, on the ground that the establishment of reserves would be an entering wedge against the principle of native land. Their spokesman declared: "This Forest Bill, if it became law, would have the effect of breaking up the native institutions absolutely, because it is inconceivable in the native mind—a stool without land. It means, Sir, that every subject of a stool is attached to the land, and it is because the land is connected with the stool that each man is able to serve the stool. But when once you sever the connection between the land and the chief, the subjects have got nothing to bind them to the stool or the chief, and the result will be that they will be bound to scatter and the whole of our tribal organization will be absolutely broken up." [12]

In reply to this opposition, the Secretary of State sent out a special commissioner, Sir H. C. Belfield, to determine whether or not the proposed legislation would actually interfere with native rights. In deciding the question in the negative, the commissioner stated that the opposition to the legislation was "obstructive to improvement and regardless of consequences"; he reported: "No one of all the persons who gave evidence before me could be induced to show the smallest interest in the preservation of forests, or to admit, when the system was explained to him, that the country would be any better for its introduction." [13] The commissioner found that opposition to the bill was confined to Cape Coast Castle, the headquarters of the Aborigines' Rights Protection Society. Nevertheless, in view of the feeling which the discussion had stirred up, the government decided not to apply the law.

Following the World War, the government urged the chiefs to establish "stool" reserves through by-laws. In 1924, at a meeting of the chiefs, the Governor said that the situation was becoming more and more serious and that the chiefs could have two years in which to establish reserves and two years more to enforce the by-laws against cutting timber in these areas.[14]

But at the end of the first two years, native chiefs had made by-laws

[10] H. N. Thompson, *Report on Forests,* Gold Coast, Cd. 4993 (1910).

[11] Cf. Vol. I, p. 830.

[12] Statement of Mr. Casely Hayford, *In the Matter of the Proposed Forest Bill,* 1911, Deputation to the Rt. Hon. Lewis Harcourt, p. 10. Cf. also Casely Hayford, *The Truth about the West African Land Question,* 2nd edition, London, 1913, pp. 42 ff.

[13] *Report on the Legislation governing the alienation of Native Lands in the Gold Coast,* Cd. 6278 (1912), para. 155.

[14] Draft by-laws were approved by the conference. Cf. a pamphlet, *Forestry and Forest Reserves, Gold Coast,* 1924.

establishing only six reserves containing two hundred and forty square miles, although the Forestry Department had said that six thousand square miles were necessary.[15]

The failure of the chiefs to act was due not only to their lack of energy, but to the distrust of the intentions of the government, the inability of chiefs and councils to agree, land disputes between stools, and the fact that chiefs had in the Eastern and Central Provinces already alienated land to such an extent that none remained available for reserves.

Despairing at the failure, the government, despite native opposition, in 1926, introduced into the Legislative Council a Foresty Bill, authorizing it to establish reserves, on the understanding that these reserves should continue to be regarded as native property. This bill has now become law.

It appears, therefore, that the system of native by-laws in the Gold Coast has not been entirely successful. The reason is not difficult to explain. The government has attempted to persuade the chiefs to enforce by this means obligations which are largely misunderstood and therefore unpopular with the natives, and which concern subjects that are really European in nature. Such matters should more properly be the object of European enactment until the natives have been educated to the point where they can intelligently perform these duties.

4. *Native Tribunals*

The Native Jurisdiction Ordinance also recognizes and regulates the jurisdiction of native tribunals, whether composed of the head chief of a division or the smaller chiefs of sub-divisions or villages, who, with their respective councillors authorized by native law, may try breaches of any by-laws, and who also have civil and criminal jurisdiction in a number of cases. In civil matters, the jurisdiction of these tribunals extends to cases where the value of the subject under dispute does not exceed twenty-five pounds, suits for divorce under native law, and suits relative to the ownership of land held under native tenure. The tribunals may also punish such criminal offences as petty assaults, slander, causing nuisances, and the wilful disobedience to the orders of a chief, with fines not exceeding five pounds or imprisonment not exceeding three weeks. Thus the jurisdiction of the Gold Coast native tribunals is much less than that of the native courts of Nigeria.[16] A monthly return of civil cases where the value of the property under dispute exceeds two pounds in value, and of

[15] *A Review of the Events of 1920-26,* Gold Coast, by the Governor, Sir F. G. Guggisberg, p. 64.

[16] Cf. Vol. I, p. 689.

criminal cases where fines exceed ten shillings, must be made to the district commissioner. The amount of fines and fees is prescribed in regulations. That is, where the value of property claimed is not more than fifteen pounds, the summons fee is limited to five shillings. The judgment fee in land cases is one pound, and in cases of appeal, two pounds. All fees and fines are now retained by the tribunals—a very questionable system of remuneration inasmuch as it tempts them to impose excessive fines. Appeals may be taken from a chiefs' tribunal to a head chiefs' tribunal within one month in cases involving more than two pounds, or in criminal proceedings where a fine of more than ten shillings or a week's imprisonment has been imposed. Unlike the system in Nigeria, appeals may be taken from the court of the head chief to the district commissioner in civil cases where the subject matter involved is more than five pounds and in criminal cases where the penalty is more than one pound or two weeks in jail.[17] In the Eastern Province, district commissioners in 1924-25 confirmed fifty-nine decisions,[18] while thirty-nine were reversed. In the Western Province, there were forty-six appeals in this year, of which twelve decisions were reversed.[19] Compared with the number of cases which native courts hear, this number of appeals appears to be small.

Native courts may order imprisonment in a native prison registered with the government; but not for longer than three months.[20]

When the Native Jurisdiction Ordinance was first enacted in 1883, the native courts had no power to enforce their judgments; on the other hand, they were subject to little administrative control. Natives were not obliged to take their cases to their chiefs, so that the young men ran to the British courts with every complaint. Consequently, the native tribunals did not work satisfactorily. In 1894, a Commission of Inquiry was appointed to look into their workings, and in 1904, the Attorney-General wrote:

"The existing state of affairs is wholly unsatisfactory and should not be allowed to continue. The remedy must take one of two forms, and it is a question of policy which should be adopted. The time has come either to make a clean sweep of native courts and abolish their legal status entirely or to put them on a sound basis and, if necessary, to back up their decisions with all the force of the executive.

"The first alternative would, in my judgment, be not only a political mistake, but an act of injustice to the natives of the Colony. The native court with its native law and its curious form of procedure has been fashioned to suit the needs of the people; we may abolish its legal status, but it will

[17] Cf. Native Court Rules, 1924, *Gazette,* 1924, p. 1215.

[18] *Report on the Eastern Province,* 1924-25, p. 6. Appeals may also be taken from the district to the provincial commissioner.

[19] *Report on the Western Province,* 1924-25, p. 8.

[20] Native Prisons Ordinances, 1888. Chapter 84, *Laws,* p. 817.

still be resorted to finally as an informal board of arbitration. For petty cases, it forms a suitable tribunal; time is no object to the councillors and what we should consider insignificant matters are patiently investigated at great length; family squabbles and other unpleasant domestic incidents are dealt with according to the custom of the country, and the Supreme Court is spared the necessity of deciding many a case wherein an English judge could easily come to a wrong decision from faulty interpretation or from mere want of familiarity with native law and native ideas. Extortion there may be in some cases, but at all events, the parties appear in person and escape the payment of the heavy fees charged by Counsel practising in the Supreme Court.

Again, if native courts are abolished, it will mean that every little case will have to be taken before the District Commissioner, and I doubt whether the present staff of Commissioners would be sufficient to cope with the extra quantity of judicial work that would thus be thrown on their shoulders." [20a]

Finally deciding in favor of the principle of native tribunals, the government introduced a bill into the Legislative Council to improve the system in 1907. It was withdrawn, however, in favor of an amending bill which was passed in 1910. This bill, which merely amended the Act of 1883, was the law until 1927.[21]

At the present time, therefore, a system of native tribunals exists throughout the Gold Coast, under the control of district commissioners. Appeals may be taken to the district commissioner and eventually to the Divisional Court in each province. These commissioners, along with police magistrates, are also commissioners of the Supreme Court. Barristers are excluded from the courts of these commissioners except with their consent. They are excluded altogether from the courts of Ashanti and of the Northern Territories. Appeals from the commissioners go to the Divisional Court, a branch of the Supreme Court.[22] The Gold Coast is one of the few places in Africa where Supreme Court cases are tried by juries composed largely of Africans. Appeals on points of law, and not on fact, may also be taken from the Divisional Court to the Full Court, composed of the six Supreme Court judges.[23]

The most profitable source of controversy in the Gold Coast to-day is the land. Such cases originate in the native tribunals and then go to the provincial commissioner on appeal. But African barristers are excluded

[20a] Statement quoted by the Colonial Secretary, *Legislative Council Debates*, 1921-1922, p. 492.

[21] Cf. Vol. I, p. 810.

[22] The jurisdiction of the Supreme Court is, however, limited only to the Colony. In Ashanti and the Northern Territories, there is a circuit judge having practically the same powers as the Supreme Court.

[23] Supreme Courts Ordinance, 1876, *Ordinances*, Vol. I, p. 10. In a memorandum from the members of the Gold Coast Bar to Mr. Ormsby-Gore, a protest was made against appeals only on law. But appeals both in England and the United States are usually limited to points of law, and do not extend to facts.

from arguing these cases in the tribunal. This has deprived them of a source of revenue, and constitutes a grievance which has probably influenced the attitude of many of the educated Africans toward proposals of the government to strengthen native authority.

Under the Native Jurisdiction Ordinance, any sub-chief may set up a tribunal and try cases which, under the previous system, had gone to the head chief. Moreover, the powers of the higher courts are no greater than those of the lowest headman's tribunal. While in giving a sanction to the chief's judicial power, the Native Jurisdiction Ordinance strengthened native institutions, it weakened them in so far as it failed to recognize the native hierarchy, and allowed native courts to come into existence which had not existed before. At present, there are seven native courts in Accra, in comparison with three before the ordinance. Thus it appears that the government has been partly responsible for the disintegration of native institutions—a fact which it deplores.

5. *Interference with Native "Rights"*

Apparently realizing these defects, the government introduced a new Native Jurisdiction Bill into the Legislative Council in 1919. But it at once met with the opposition of the natives, who, in a petition to Lord Milner, Secretary of State for the Colonies, alleged that the bill would "tend to subvert the native constitution of the country." They objected particularly to the clause (taken from the Chiefs Ordinance) authorizing the Governor to confirm the election of chiefs, which, according to the petition, "virtually constitutes the governor of the colony the maker and unmaker of native chiefs." Moreover, the bill would authorize the Governor to extend or curtail the judicial powers of a chief, making the chief, according to the petition, "a government creature, a quasi-official." The natives objected to the provision that no deposition of a chief should take effect unless confirmed by the government, on the ground that it would take "away from the people their safeguard against the tyranny and unconstitutional acts of a chief—the power and right of destoolment."

Such interference with the rights of the Gold Coast people was represented as "an act contrary to all existing treaties that form the basis of the relations between the people of this country and the British Government." The bill also proposed to make the decision of the provincial commissioner in any land case final and to block appeal to His Majesty in Council—a provision which was attacked on the ground that it would deprive the native of the rights of "a British subject." The petitioners asked that the condition be restored in which the native courts merely

had concurrent jurisdiction with the British courts—a provision which would have increased greatly the business of African petitioners.[24]

In reply, the government stated that it did not intend to refuse recognition of any chief or refuse to confirm his destoolment provided the election or the destoolment had taken place in accordance with native customary law.[25] In order to make these points more clear, a new bill was introduced into the Legislative Council in 1921-22. It withdrew some of the objectionable provisions and also consolidated a number of existing ordinances, such as the Chiefs Ordinance of 1904, the Stool Property Detention Ordinance, and the Native Prisons Ordinances. As this bill amounted to little more than a consolidation of existing ordinances, the government naturally believed it would meet with little opposition. Its principal change was to recognize the authority of head chiefs over chiefs in judicial matters, and to confine land cases to the courts of provincial commissioners.

Notwithstanding the mildness of the measure, several Africans were allowed to appear as special counsel to argue against the bill.[26] Repeating the old arguments about encroaching upon native institutions, one of them also stressed the fact that "the chiefs are praying that they should not be deprived of a lawyer's services" and went on to say: "I emphasize that prayer for them in the strict administration of justice. . . . If lawyers are indispensable to pilot and protect your Excellency [the Governor] in your administration of this government, the petitioners humbly demand that tangible reasons should be given by government as to their avowed intention to deprive them, the native rulers, by legislation, of the necessary professional aid of lawyers when their valuable property, liberty, and reputation are by law placed in the balance of justice." Another counsel declared, "In no civilized community are lawyers ignored." [27]

It thus appears from these remarks that the African members of the Legislative Council were chiefly concerned with extending the opportunities for African barristers which the bill would curtail as far as land cases

[24] This petition is published in *Legislative Council Debates,* 1921-22, p. 445.

[25] Apparently the government wished to prevent destoolments by cliques.

[26] One appeared for the Gold Coast Aborigines' Rights Protection Society, and another for the Gold Coast Bar.

[27] Mr. Casely Hayford, one of the leading African barristers and authors of the Gold Coast, said: "I think that the bar should be supported rather than discouraged. Even if they do make enormous fees, it is not undesirable, for after all, what do they do with the money? Do they not educate and train their children to become good citizens, and to provide you with Legislators capable of following your debates? Do they not build good houses and improve your cities? Do they not invest in articles of merchandise and make money circulate? In what way, therefore, are they undesirable?" *Legislative Council Debates,* 1921-22, pp. 461, 476, 526.

were concerned. The position of the government was that natives got justice in the commissioners' courts without the assistance of counsel; and that in land cases the commissioner was in a much better position to determine disputes fairly than Supreme Court judges, unfamiliar with the geography of the question. Moreover, the exclusion of counsel from the commissioners' courts saved the natives tremendous sums which would otherwise go into lawyers' fees. Many natives now take land cases on appeal from the Provincial Courts to the Supreme Courts, where they employ lawyers, merely to make them "big men" in the community. The highest ambition of some Africans is to get a case taken to the Privy Council in London. In one such case, involving the sum to be paid by the government for the land expropriated for the construction of Takoradi harbor, African lawyers are said to have taken twenty thousand pounds of the thirty thousand pounds awarded as compensation. A large number of the stools in the Gold Coast are heavily in debt to-day because of lawyers' fees, to be relieved of which some chiefs have frequently imposed a special levy upon their subjects.

Now, the administration of justice by political officials is not entirely satisfactory anywhere in Africa. But it is a practical impossibility to substitute for them professional European judges; nor would such a plan, if practicable, possess many advantages. While in theory they would apply native law, these judges would bring to native cases a type of mind rigorously trained in European law. They would not have the opportunity of the administrative officer to acquire personal contact with the natives. Moreover, the natives do not understand the principle of separation of powers. Accustomed to the single authority of a chief, whether native or European, they would not, it is argued, respect an administrative officer if his decisions were subject to review by a judicial magistrate.

Since the administration of justice by executive officers must continue for some time, it is difficult to see how the cause of a native would be improved by admitting an African barrister to their courts. The executive officer would know none of the fine points of European law or of European cases familiar to the barristers. He might even lose his temper with an African barrister who attempted to cite precedents to him. Moreover, in deciding native cases, this court would be obliged to apply not European, but native law, which has nothing to do with European precedents. It would seem inevitable, on the other hand, that an administrative official, pressed by a multitude of duties, should sometimes settle cases hastily. This situation is relieved, however, by assigning one officer on the staff to judicial duties. Moreover, the control of the Supreme Court merely through reviewing the records is not entirely satisfactory.

But from the point of view of developing native institutions so that eventually they may stand on their own feet, the extension of native, not British courts, is desirable. If native barristers become necessary in such courts, it will be because they know native and not European law. Increased native jurisdiction will thus diminish the judicial duties of administrative officers as well as British courts and barristers.

In opposing the Native Jurisidiction Bill, the African representatives declared that in view of the Bond of 1844 and other treaties, the government could not curtail the power of the Native Authority without their consent. Thus they claimed that the peoples of the Gold Coast were virtually independent. This argument ran directly counter to the former argument that the natives were "British subjects" and entitled to the jurisdiction of British courts. A native could not be a national of the Gold Coast nation and an Englishman at the same time. Moreover, as the Attorney General pointed out, the Gold Coast was annexed in 1901, as a result of which no courts could exercise jurisdiction except under the direct authority of, or in virtue of recognition by, the British Crown.[28] The extent to which the Gold Coast Government controls native institutions is therefore a matter of policy. The Gold Coast Government has very often given way in face of native protests.[29] Likewise, it now withdrew the Native Jurisdiction Bill; and the law of 1883 as amended in 1910 still remained in force.

This policy of non-interference has not always worked to the advantage of the native population or to native institutions.[30] Under the Native Jurisdiction Ordinance, chiefs have set up courts in defiance of head chiefs. Native tribunals are, on the whole, not adequately controlled. Fees are pocketed by the chiefs who receive no stipend from the government, and who therefore are tempted to make illicit exactions. Gold Coast Africans oppose the idea of salaries on the ground that they would make government servants out of the chiefs. But this objection would be removed

[28] He cited the case of Mutchi vs. Kobina Anna, where the court said: "Had Her Majesty not recognised these courts, I think it would be clear that it must be held that their jurisdiction ceased in respect of the British Dominions, for it could not be assumed that Her Majesty would permit the exercise in her Dominions of a jurisdiction not her own. . . . In fact, however, His Majesty confirms the recognition within the British Dominions of these native courts by Her late Majesty, and declares that the executive is acting lawfully in recognising and regulating these native courts. . . . The Crown may, in annexing territory, consent to the continuance of ancient local courts. I contend that it may do so impliedly, and that it is only upon this assumption that the native courts under the Native Jurisdiction Ordinance exist." Cf. *Legislative Council Debates*, 1921-22, p. 578.

[29] Cf. Vol. I, p. 820, for the government's defeat in regard to land policy.

[30] Just as it failed to work to native advantage when the British declined to accept a protectorate over Ashanti.

if they were paid out of native treasuries. This same feeling of caution which it has shown throughout its dealings with the Gold Coast has prevented the government from imposing direct taxation upon the people since the days of the Poll Tax Ordinance of 1854.[31] Meanwhile, the government laments the disintegration of tribal authority. Increased judicial power, the imposition of direct taxes collected by the chiefs, and the establishment of native treasuries out of which the chiefs would receive annual salaries in lieu of present tribunal fees would do much to check this process which, to the visitor, appears to be much more serious in the Gold Coast than in Nigeria or in Sierra Leone. It must, however, be remembered that economic prosperity has been much greater in the Gold Coast than in the sister colonies and that therefore the amassing of wealth by commoners has seriously depreciated the position and authority of the chiefs.

6. *The Native Administration Bill,* 1927

Determined to bring about changes by new tactics, the Gold Coast Administration invited the head chiefs on the Legislative Council to submit proposals with a view to placing the powers of the native authorities upon a more satisfactory basis. After preliminary conferences in 1925, the newly established Provincial Councils of the Eastern and Central Provinces jointly prepared the draft of a bill without, in the first instance, the aid of the British authorities.[32] After being carefully scrutinized and revised by His Majesty's Law Officers, the bill was introduced into the Legislative Council in 1927. The bill recognizes for the first time the Oman Councils, consisting of the Paramount Chief, head chiefs, linguists and elders. This council shall have jurisdiction as a tribunal of first instance or as an Appellate Tribunal to the Paramount Chief's Tribunal "to determine all causes and matters civil or criminal arising from within the State whenever such causes or matters are governed by the Native Customary Law" of the state. An appeal may lie from the Oman Council to the Provincial Council, which consists of all the Paramount Chiefs of the province.[33] Its decision in land appeals is final. The Provincial Council shall, acting as an executive body, try all disputes of a constitutional nature relating to title, precedences, the office of a stool, etc., arising between two Paramount Chiefs of the province. Acting as a judicial body, the Provincial Council settles all disputes relating to ownership of land. Excepting in the case of an appeal from the State or Oman Council in connection with land,

[31] Revenue comes from customs which are large, due to the prosperity of the colony. See Vol. I, p. 856.

[32] *A Review of the Events of 1920-1926, cited,* p. 243.

[33] Cf. Vol. I, p. 838.

the decision of the Provincial Council may be appealed to the Full Court. When a land dispute arises between chiefs of two provinces, an effort should be made to have it settled by a Joint Provincial Council.

The ordinance also provides for increased control over the action of the native tribunals, while it provides for the creation of tribunal treasuries.

The unique feature of this bill was that it was introduced into the Legislative Council in the spring of 1927 by an unofficial member, a leading chief. This was the first time in the history of the Colony that such a procedure had been followed.[34]

[34] *The Gold Coast Leader,* May 7, 1927, in an editorial, "The Truth about the Present Political Situation," says that thirty-seven Chiefs as against twenty-three are opposed to the Bill, and that it was introduced by a chief for reasons of self-interest.

CHAPTER 50

LAND AND LABOR

1. *Cocoa*

THE richest colony in continental Africa to-day,[1] the Gold Coast, is usually said to owe its wealth to a native boy who in 1879 brought back some seeds from the cocoa-fields of Fernando Po, where he had been a laborer. It took several years for the cocoa crop to take root; but with the aid of the government, the natives exported eighty pounds in 1891. This figure gradually increased until 1910, when the colony exported 22,631 tons. The greatest increases came subsequent to the World War when the crop leaped from 66,343 tons in 1918 to 231,000 tons in 1926. Cocoa exports in 1926 constitute eighty per cent of the value of the exports of the Colony. Producing nearly half of the world's production of five hundred thousand tons, the Gold Coast is the largest producer of cocoa in the world, her chief competitor being Brazil.[2] The greatest importer of Gold Coast cocoa is the United States.

In the production of this stupendous crop, the Gold Coast native has not had, nor has he wished, the aid of European capital or enterprise. As a rule, the native grows cocoa in small family patches, each family producing about three-quarters of a ton a year. It takes about seven years before cocoa trees come in to full bearing. They require very little attention in the meantime, and the visitor can scarcely distinguish trees from bush on many farms. Moreover, the native method of drying and fermenting cocoa is still primitive. As there has been no system of government inspection as to quality, and as traders pay the same price for poor as for high quality cocoa, the native has no incentive to improve the grade of exports. In 1927, however, the government prepared a plan of inspection, based upon a distinction between grades.

Nevertheless, Mr. W. A. Cadbury, the leading cocoa manufacturer, testified in 1913, that the quality of the Gold Coast cocoa had greatly

[1] Cf. the statistical table, Vol. II, p. 889.

[2] However, cocoa production in the French Ivory Coast and in Nigeria has increased in recent years, and eventually these colonies may challenge the supremacy of the Gold Coast. The opinion is frequently expressed that the Gold Coast has reached the limit of its capacity, which the government estimates to be two hundred and fifty thousand tons a year.

improved since 1908.[3] Following the War, however, disease which produced wormy beans put in its appearance, largely because of neglect. The efforts to eradicate this disease have already been described.[4] The grade of Gold Coast cocoa is admittedly low in comparison with that of the cocoa produced on the European plantations of Trinidad. But as the demand for high grade cocoa is limited, it is the cheapness of Gold Coast cocoa which has led to its extensive use. Despite the negligent methods of many native farmers, no one has seriously proposed that European plantations take over the cultivation of this crop, as they do in Fernando Po, and as they did in the German Cameroons before the War.

2. *The Middleman*

Practically all of the cocoa exports are handled by European commercial houses. They usually maintain a system of stores along the railway line in charge of Europeans, and a system of "bush" stores in charge of natives. These stores sell goods to natives and buy cocoa. In other cases, European firms employ native brokers who, furnished with capital, do a flourishing middleman's business, usually buying cocoa at between twelve and twenty-two shillings a load of sixty pounds, for which they receive a commission of three to six pence a load. In exceptional cases, some of these native brokers are said to have made—at least in the boom year of 1920—as much as ten thousand pounds a year.

Gold Coast farmers have frequently complained that they are not getting the proper prices for their cocoa because European buyers monopolize the trade. This feeling has been intensified by the creation, following the War, of (a) the African and Eastern Trade Corporation or the "Combine" which is an association of a large number of the West Coast Traders and (b) the "Lever Combine," the principal member of which is the Niger Company. Some native traders have attempted to ship directly to England and the United States, but they have found it almost impossible to obtain shipping and credit which, they claim, is controlled by European firms. Attempts of the International Cocoa Conference to establish a central distributing agency for cocoa have also aroused native suspicion. The Bank of British West Africa for years monopolized the banking business of the West Coast. But at the request of a number of enterprising Gold Coast Africans, The Colonial Bank (now Barclay's Bank) entered the Gold Coast and Nigeria in 1917. For a time it was more liberal in credit to natives than the Bank of British West Africa. But when the crisis came, following the boom of 1921, it

[3] *Minutes of the West African Lands Committee,* paras. 10, 596.
[4] Cf. Vol. I, p. 800.

lost a good deal of its money as well as its nerve and has now become more conservative.

In order to rid themselves of the European middleman, the Gold Coast natives have attempted to form Cooperative Marketing Agencies. One such venture took place in 1921 under the name of the Gold Coast Farmers' Association—an organization which exported a hundred tons in the first year of its existence. The following year an American came to Accra and struck up a friendship with the officials of this body. He told them that the natives were being exploited by the European buyer; and he offered to pay them twenty-five shillings a load, although the regular firms were offering only fifteen to seventeen. He paid them, however, only part of the purchase price, and promised to pay the balance later. Many natives belonging to the Association took him at his word, and he actually purchased about nine thousand five hundred tons under this arrangement. Having shipped the cocoa, and still owing the natives about one hundred and ten thousand pounds, he slipped out of the country and returned to the United States. Government law officers declare that the American had been so carefully coached by lawyers, that it was impossible to have him extradited. The incident dealt a blow not only to American prestige but also for the time being to the cooperative movement. Plans are now being made, however, to revive the idea. Natives are also urging the government to establish agricultural banks with a view to helping the industry.[5]

European commercial houses on the West Coast deny that the price of cocoa or of palm oil is controlled. They assert that in view of the competition of the German, British, and American markets, this is im-

[5] Cf. the Editorial, *Gold Coast Independent,* August 21, 1926.

In another issue (September 25, 1926), the same paper says, "It is an admitted fact that our farmers have for a good number of years been thoroughly dissatisfied with the prices offered by the buyers for their cocoa. To commence with, in the absence of grading, practically one price is paid for all quality of cocoa, whether it is fine, fair, good, or indifferent. . . ."

The manufacturers and speculators "know that our production is large; that our farmers are unorganised, and very eager for various reasons, to market their cocoa as early as possible, regardless of the price that is being offered. Somehow or other, notwithstanding the millions of pounds that are poured yearly into this country, in the majority of instances, the farming class remains as poor as ever, and is entirely dependent upon each year's output. . . .

"As usual, we have been noting the prices at which forward sales for this season's cocoa have taken place in the European and American markets; but as it is to be expected, the farmer is not by any means likely to get anything near those prices, after making all reasonable allowances for the profits of middlemen. Having got what they wanted from manufacturers and other speculators, it is only natural for the local buyers to depress the market to suit their own purposes, knowing of course that without organisation and without financial backing, coupled with the unreasonable rush to dispose of his produce, the farmer is sure to sell. This state of things is helping to disorganise and ruin the industry. . . ."

possible. Without making a detailed study of the international cocoa market, an outsider cannot express an opinion upon this question. Farmers the world over feel that they are exploited by the middleman. But this feeling is intensified in West Africa where the farmer is a native and the middleman a European. So far, the government has followed a policy of *laissez-faire*. Except for an Agricultural and Commercial Society, it has not encouraged the native cooperative movement. It might well study French policy in regard to the establishment of native cooperative societies.[6] Once different grades of cocoa receive a government stamp of approval, traders will be obliged to pay more for good quality cocoa than for poor.

3. *The Export Duty*

Natives have also resented the imposition of the export duty of cocoa. Such duties were imposed not only upon cocoa, but also upon palm products, groundnuts, and hides and skins, in the West African colonies in 1916[7] to take the place of customs revenue reduced temporarily by the War. For some reason, the export duty on cocoa from the Gold Coast was doubled in 1919, so that it was twice the duty on cocoa in Nigeria.[8] The unofficial members of the Gold Coast Legislative Council voted solidly against these export duties when they were proposed in 1916 and again in 1919, and they were carried only by the official majority. Natives believed that they paid the tax which amounted to twelve to twenty-eight per cent of the value of the cocoa. The whole question of the incidence of these export duties was studied by a Committee on Trade and Taxation, appointed by the Imperial Government in 1922.[9] This committee agreed that an export duty on cocoa was in principle to be deprecated since it affected production to some degree. While the natives should be obliged to pay some taxes, it recommended that eventually the export taxes should be abolished. While originally the export duty was imposed only as a war measure, the financial depression into which the West African colonies fell after the War, accentuated by the loss of revenue because of the abolition of trade spirits, led to the retention of the export duties as a permanent policy. In 1922, however, the Gold Coast Government decided to reduce this export duty one-half. Nevertheless, the following year revenue actually increased probably because of the increase of trade stimulated by the decreased tax. The price of cocoa fell by almost exactly the

[6] Cf. Vol. II, p. 44.
[7] Cf. the recommendations of the *Committee on Edible and Oil-Producing Nuts and Seeds*. Cd. 8247 (1916), p. 22.
[8] The Gold Coast duty in 1919 was £4 13s 4d a ton. It was later reduced
[9] *Report*, Cmd. 1600 (1922).

amount of the reduced duty—[10] seeming to indicate that the consumer had borne the tax—but this fall may have been merely a coincidence. Despite further reductions in rates the cocoa duty in 1925-26 yielded two hundred and fifty-six thousand pounds.

4. *Effect on Land Tenure*

Native land tenure on the Gold Coast has been similar to that in other parts of West Africa. Land is divided into Stool Land, Family Land, and Private Land. "Each subject of the King or Chief has a right to have alloted to him a portion of the stool land for cultivation. . . . To natives, other than subjects of the stool, permission may also be granted to cultivate stool property, but this permission is granted by the King or Chief with the concurrence of his head men or Councillors. . . ."[11] A family occupying land has security of tenure against the stool; but all land for the moment unoccupied is at the disposition of the chief and councillors in accordance with rules fixed by native law. All of the land of the Gold Coast is recognized as belonging to the various stools or native states. There is no such thing as unclaimed land.[12] Moreover, the sale of land as we understand it was unknown, and as a rule there was no individual tenure.[13] The development of the cocoa industry has, however, tended to change these conceptions. Native farmers, not possessing enough family land, have gone to alien stools; and chiefs, tempted by comparatively large sums offered as rent, have in some cases disposed of stool and family land without the consent of their councils.

Moreover, the fact that cocoa is a permanent crop—in the sense that it is not planted anew each year—has necessarily modified the conditions upon which native law is built. Under native law, it was customary for an owner to charge a tenant one-third of the crop as rent, and if he violated any terms of the agreement, the owner could summarily evict him.

[10] *Address by the Governor, Legislative Council Debates,* 1923-24, p. 17.

[11] The Acting Chief Justice, *Report upon the Customs Relating to the Tenure of Land on the Gold Coast,* London, 1895.

[12] The court, summarizing the remarks of a barrister, says, "If this land was no one's land and was within the Akwapim country, it must have been attached to the Akwapim stool, and he enunciated the general principal that all unoccupied land within the territory under a paramount stool belongs to such stool. This is practically the principle upon which the Courts of this colony have proceeded from their conception; and this doctrine has served as a safeguard to the natives against possible government claims." Wiapa v. Soloman, *Renner's Gold Coast Reports,* London, 1915. Vol. I, Part 2, p. 410 (1905).

[13] "Rather than sell his land, the Fanti landowner prefers to grant leave to another, a friend or alien, to cultivate or dwell upon it for an indefinite period of time, thus reserving unto himself the reversion and the right to resume possession whenever he please." J. M. Sarbah, *Fanti Customary Laws,* London, 1904, 2nd edition, p. 86.

But the British courts have ruled that because of the great value of cocoa—a permanent crop—this rent is excessive; moreover, the powers of eviction must be limited, provided the tenant lives up to a reasonable agreement.[14] Some enterprising farmers have also demanded individual tenure in order to escape the dead hand of family control. More frequently, a farmer wishes to borrow money for some purpose or other, and gives a mortgage on land, presumably his own, to the money-lender. It frequently happens, however, that the land is family property. When the British courts learn that the property really belongs to the family under native law, they will not allow such land to be seized for the debt. But in many cases they are ignorant of the family claims.[15]

One firm in Accra has been obliged to buy the land upon which it has erected its warehouses from three different natives. As soon as it paid one supposed owner, another native would urge his claim before the courts! The result has been endless confusion and litigation. Likewise when the government started a sisal plantation near Accra, four chiefs claimed to be the owner of the same land. It sometimes happens that natives will register two deeds the same day for the same property, each purporting to record a separate transaction.[16] The only security which natives can give is their land; but in view of this confusion, few European merchants and no banks are willing to accept such security in return for a loan.

Apparently out of a desire to advance the English ideas of property, the British courts have adopted in regard to stool property a rule opposite from that laid down for family property. In the Lokko case, a native asked for a loan of sixteen pounds and offered the land which he occupied as security. Upon the failure to pay, an action was brought to attach the land. It turned out, however, that this land which Lokko had occupied belonged to a stool. So the court was obliged to decide whether Lokko had a title and whether the land therefore could be attached. The court

[14] In one case, the defendant declined to pay the plaintiff one-third of the cocoa proceeds from certain land which he held as tenant. He was thereupon ejected. The defendant appealed to the courts against the ejectment. Despite the testimony of a chief that under native law the owner could eject a tenant who failed to live up to the contract, the court ruled that since there was a permanent crop involved, the owner could not eject the tenant provided he met the terms laid down by the court—two shillings a year for cocoa tribute for each member of the family in addition to the rent. He could not, however, extend cocoa cultivation without the consent of owner. Pobee v. Takye, 1912, *Renner's Reports, cited,* Vol. I, part 2, p. 699.

[15] Cf. Akempon v. Enyan, 1912, *Ibid.,* p. 625. In this case two brothers bought land out of monies belonging to a joint account and held the land as family property. One of them then executed a mortgage to the African Association which sold it to the plaintiff. The court ruled that the property was family property and could not be attached. Cf. also Sarbah, *cited,* Ch. VI.

[16] *Visit to West Africa,* Cmd. 2744 (1926), p. 147.

admitted that by native law family property could not be seized for the debt of one of its members. But in its opinion, stool property was on a different footing. The occupation and development for a period of forty years of the property once belonging to the stool, had converted it into private property. Therefore it could be sold in execution.[17] It is not clear, however, whether a mortgage secured on stool land granted to a European—in this case it was a native—would be upheld.

Because of this situation, there is a growing demand for some form of individual tenure on the Gold Coast. While at present titles may be registered with the government under the Registry Ordinance, this does not extinguish past claims. Nevertheless, it is believed that the natives would probably resent any system in which the government would issue Torrens titles because that would assume that the government owned the land; any attempt to issue such titles in the immediate future would run the danger of confiscating land belonging to absent or illiterate members of the family. Perhaps it may be possible to work out a system of titles, through the gradual processes of adjudication before the native courts, with appeal to a European land court. But the real reason for the demand for individual tenure—to give security upon which natives may borrow money from Europeans—does not deserve unrestrained encouragement. A system of individual freehold tenure in the Gold Coast would probably lead to more excessive alienations to Europeans, in return for loans and for other inducements, than have taken place under the Concessions Ordinance in the past.[18] The legitimate demand for credit by the natives could be met by the establishment of cooperative societies or agricultural banks. Such a source of credit would enable the government to restrict borrowing to legitimate ends and thus prevent foreclosures.

In a few cases, the cocoa crop has also had the effect of developing a wage-earning class of natives, employed by large-scale native farmers. But this tendency does not seem to be widespread, and the basis of cocoa production still remains in the family.

5. *The Public Lands Bill, 1897*

As early as 1860 the native chiefs started the practice of selling stool land to foreigners, in violation of native law. This tendency was greatly increased by the discovery of gold and the mining boom which occurred on the Gold Coast in 1900. Concession hunters flocked into the country and chiefs ignorantly and without regard to the interests of their subjects ceded away the rights to the land with prodigal liberality.

[17] Lokko v. Konklofi, 1907, *Renner's Reports, cited,* p. 450.
[18] Cf. Vol. I, p. 822.

At this time, the British Government had not annexed the whole of the Gold Coast. Even after the annexation of 1901, it recognized that the remainder of the country outside of the forts belonged to the stools or to the natives, and not to the Crown. This policy has even led to a provision in the Marriage Ordinance that when a native dies intestate and without heirs, the land shall not escheat to the state as is customary, but shall be distributed among the natives according to native law.[19] The Gold Coast Government, alone of the governments of the African colonies, did not and does not claim mining rights as its own. These also are recognized as belonging to the natives. A European company wishing to mine must get a concession from and pay rent to the native owners of the land involved.[20]

Despite the fact that it had never disturbed the native rights to the land, the Gold Coast Government did not wish to stand by and unconcernedly watch the chiefs sell the country out to European mine interests. In an effort to control these concessions, the government framed the Public Lands Bill of 1897. The preamble of this bill stated that the purpose of the government was to "facilitate the acquisition of public land by private persons," subject, however, to the control of a Concessions Court. Now the natives claimed that this preamble would have the effect of converting native into Crown land, making the British Government the ultimate and paramount owner of all the unoccupied land in the colony.[21]

[19] Sec. 47 (i), Chapter 71, *Laws*, p. 714. It appears, however, that the Crown has claimed the inherent right of *ultimus haeres* to any land for which no other owner can be found, but that it has not exercised this right. Cf. Sir H. Belfield, *Report on the Legislation Governing the Alienation of Native Lands in the Gold Coast Colony and Ashanti*, Cd. 6278, para. 23. Cf. also H. H. Hayes Redwar, *Commentaries on Some Ordinances of the Gold Coast*, 1909.

[20] This is an example: "This Indenture . . . by the Nana Attah Fuah . . . Omanhene of the Paramount Stool of Akim Kotoku and Kofi Odo of the Stool of Kikoase, both in the Central Province of the Gold Coast Colony, with the advice and consent of the Councillors and Elders of the said Stool, acting for themselves and as representatives of the people of the said stools whose consent is necessary or requisite according to native law and custom for the valid alienation of land of the Stool of Kotoku, which assent is testified by the execution of these Presents by some of such Councillors and Elders . . . on the one part, and the West African Diamond Syndicate, Lt., on the other."

In one of the schedules, the Syndicate promises not to disturb cultivation or villages unless necessary for the reasonable working of the land, and to pay compensation, as fixed by arbitration, in case of damage to the owners. In another schedule, the people are given liberty to hunt and snare game, collect firewood, snails, and building material for their dwellings and to till and cultivate their farms and plantations so far as the same can be done without causing any interference or damage to any of the mining operations of the Syndicate. These terms are embodied in concessions now being made, not those made before the Concession Ordinance of 1900. However, a mine must pay a royalty to the government in addition to rent to natives.

[21] See "Humble Petition in the matter of a Proposed Land Ordinance, 1898," presented to the Secretary of State for the Colonies.

Opposition to the bill became so bitter that the Gold Coast Aborigines' Rights Protection Society was formed,[22] and a deputation to protest against the bill was sent to London, as a result of which the Public Lands Bill was withdrawn. In its place, the government in 1900 enacted a Concessions Ordinance.

6. *The Concessions Ordinance*

Unlike the practice in other colonies in Africa, this ordinance establishes a judicial instead of an executive control over transfers of land between natives and non-natives. Under the Concessions Ordinance,[23] no concession may be certified as valid unless it is approved by a Concessions Court, which is composed of Supreme Court judges. The court must satisfy itself that the proper persons are parties to the concession and that they understand the nature of its terms; that it has been obtained by proper means and for an adequate consideration; and that the customary rights of the natives in regard to shifting cultivation, etc., are reasonably protected.

Mining concessions are limited to five square miles; and concessions with respect to timber, rubber, or other products of the soil are limited to twenty square miles. No person shall at one time hold concessions of more than twenty square miles of mining rights or of forty square miles of rights relating to timber, rubber or other products of the soil. It appears, however, that these limitations are evaded by the practice of "dummying." [24] No concessions are valid for a period longer than ninety-nine years.

A person wishing a concession first approaches the chief of the district concerned, either personally or through a lawyer. After a period of bargaining, an indenture is drawn up in English which is read over and explained to the chief and councillors, and then signed. But as one commissioner reported, "Since these documents have usually been drawn in the complex language employed by conveyancers, the value of the explanation given by a superficially educated African may be left to the imagination." [25] Within the next six months, the applicant must file the agreement with the registrar of the court, after which an inquiry is held. If the court is satisfied that the concession conforms to the provisions of the Ordinance, it orders a survey, and when it is completed, which is after a prolonged period of time, it issues a certificate of validity. Any native

[22] Cf. Vol. I, p. 830. [23] Chap. 87, *Laws*.

[24] Thus the Apol Company and a number of satellites obtained certificates over this limit. Cf. the testimony of Mr. Hunt, *Minutes of the West African Lands Committee*, para. 1215.

[25] Sir H. C. Belfield, *Report, cited*, Cd. 6278, para. 59.

may oppose the concession at the inquiry, in which case the inquiry assumes the character of civil proceedings, which in some cases are long drawn out and costly.[26]

Under this procedure, the court has no knowledge of the initial negotiations which take place before notice is filed. "Consequently, these negotiations are carried on without the knowledge or intervention of any officer, either of the Government or of the Court, with the result that terms may be agreed upon which are not sufficiently understood at the time by the native grantor, and are only realized by him when matters have progressed too far for alteration. No arrangement can be satisfactory which leaves the native landowner wholly in the hands of the applicant at any stage of the proceedings, and which fails to provide him with that official advice and guidance which is the only means by which his interests can be certainly and effectively protected." [27]

Once notice has been filed, nothing in the Ordinance compels a concessionaire to develop his holding. He is not even obliged to take out a certificate of validity after the completion of the survey. It appears also that a European may prospect a claim without having obtained a certificate of validity. His rights are challenged only in case of dispute over the title. As long as he continues to pay the rent stipulated in the indenture, his claim remains alive. "The omission of a provision requiring the holder to place his claim before the court is one of the gravest deficiencies noticeable in the measure, for not only does it preclude the Government from forming any accurate estimate of land alienated, but it constitutes a perpetual menace to those who are seeking land with the intention of developing it effectually. There are at the present time some hundreds of concessions 'under notice' recorded in the books of the Registrar of the Court. Many of them have stood there for ten years or more, and though in a great many cases proceedings have probably been abandoned, there is nothing to prevent any such claim being further advanced if the claimant thinks it worth his while to do so . . ." (sec. 66) Only the Attorney General has power to apply to the court for a rule calling on the holder of a concession to show cause why it should not be cancelled.[28] This power was exercised following the World War to cancel concessions covering several thousand miles.

Moreover, the Concessions Court "is situated at a considerable distance from the locality in which the concession area is situated." The Judge "has no personal knowledge of the land, or of the people who own the land and are responsible for its disposal. He is dependent for information as to the proper parties to be summoned on the names which appear on the

[26] Cd. 6278, para. 61. [27] *Ibid.*, para. 62. [28] Sec. 23, Chap. 87.

deed of grant, possibly supplemented by others supplied by the applicant or his counsel . . ." (para. 67) These disadvantages could be overcome by executive control over concessions such as is exercised in southern Nigeria or in Uganda.[29]

For some reason the ordinance does not apply to agricultural, but only to mining, timber, and rubber concessions.

The extent to which Gold Coast chiefs have granted concessions to foreigners may be seen from the following table:

Total area of the Gold Coast Colony	24,335	square	miles
Total alienations by natives notified in gazette	25,108	"	"
Total struck out by the courts	10,279	"	"
Total remaining alienated 1913	14,829	"	"
Total area the alienation of which is validated by the courts up to 1914	1,084	"	"[30]

These figures show that up to 1914 the native chiefs had signed away an area larger than the total area of the colony. While the court had struck out half of these concessions, the concessions which remained covered in 1914 half the area of the Colony.[31] While only a small portion of these concessions in 1913, which nevertheless covered nearly one-twentieth of the Colony, had received certificates of validity, this was not because of the opposition of the court which had already approved the principle of the concession in ordering the survey, but because of delay in completing the survey or in developing the property. As the Deputy Governor of the Gold Coast wrote to the Secretary of State in 1913, "The point is that the Ordinance places little or no check on the alienation of their land by the representatives of the native proprietors. . . . It cannot, in such circumstances, be said that the Government extends to the governed that protection which duty demands that it should. . . . A real danger exists of serious wrong being inflicted on the general members of a community by restrictions being placed on their free cultivation of the land which they share in common when the uncontrolled action of their rulers has allowed it to become the subject of concessions. . . ." [32] These excessive

[29] Cf. Vol. I, pp. 596, 760.

[30] *Minutes of the West Africa Lands Committee.* An earlier return is given in *Alienation of Tribal Lands,* Cd. 5743 (1911).

[31] In 1926, the total area comprised in concessions was 9,408 miles—about five thousand miles less than in 1914, largely because of the action of the Attorney-General. Of this total, only 3,215 square miles are being worked; 2,163 are mining concessions; while 1,052 square miles are in agricultural concessions. Mr. Ormsby-Gore, in his report, *Visit to West Africa* (p. 152) gives different figures, totalling 1,021 square miles, but apparently these are only "validated" concessions.

[32] Letter of April 30, 1913, *Correspondence and Papers Laid Before the West Africa Lands Committee,* p. 33.

alienations by chiefs have not always been due to greed. In many cases chiefs have been ignorant of the extent of the land which they have alienated and as a result have granted two concessions to the same piece of land.

Despite the theoretical ownership of the land by the natives, it appears that the rents paid by concessionaries to native chiefs are inadequate. In 1925 they amounted to only 7415 pounds.[33] The sums thus derived are theoretically divided into three parts—one-third is retained by the chief; one-third goes to the stool for public purposes, and one-third goes to the elders. But while the land in theory belongs to the tribe, the members as a whole have obtained no profit from the leases. The chiefs usually employ the rents for personal extravagance or to pay lawyers' fees.[34] In fact, those stools which receive rents from concessionaries are usually plunged deeply into debt, while those stools which have granted no concessions are usually solvent. This state of affairs could be corrected if rents from concessions were paid into native treasuries. Following the trouble over the 1911 Forest Bill, the British Government despatched Sir H. Conway Belfield to the Gold Coast to study the land situation. He pointed out the weakness of judicial in contrast to executive control over concessions; and recommended a plan in which all negotiations for concessions should take place through the medium of the district and provincial commissioners. If no opposition is entered, a commissioner of lands should approve the concession. If opposition is entered, the commissioner of lands should hold a hearing at the office of the district commissioner, subject to an appeal to the Full Court.[35]

No action on these recommendations was taken; and when the West African Lands Committee, appointed in 1912, learned of the situation on the Gold Coast, it asked the Secretary of State to secure the immediate adoption of an ordinance prohibiting natives from alienating land. But the Governor of the Gold Coast, on receiving this suggestion, declared that it was the unanimous sentiment of officials that such an action would be a blow at native rights. The same considerations which led the govern-

[33] The court obviously has difficulty in determining what adequate compensation is. Companies holding concessions pay the rent to the treasurer of the government who in turn pays the native chief. About half the rents come from the Tarkwa district—where the gold and manganese mines are located. These rents are only for certified concessions, but certain payments are made by companies direct to chiefs for uncertified concessions. The treasurer also holds a balance of unpaid rents amounting to 2093 pounds, which he cannot pay because of disputes over destoolment; there is no one to receive the money.

[34] "The Tribe finds itself despoiled of a substantial area of its land for a period which leaves it dispossessed for two or three generations, and receives no sort of compensation for the diminution of its property." Belfield, *Report, cited,* para. 35.

[35] *Ibid.,* paras. 87-97.

ment to hold up the Public Crown Land Act of 1897 and the Forestry Law of 1911, again kept it from saving the natives from themselves.

The natives are so sensitive in regard to the "encroachments" of the government upon their land rights and the Concessions Court has been so long in existence that its abolition at the present time would cause a great deal of trouble.[36] Nevertheless, it might be desirable to appoint as judges to the court, officials having had experience with land questions, thus converting it into a semi-administrative land tribunal. In collaboration with political officers, it could investigate a proposed concession in its early stages, while it could also decide stool disputes, and gradually work out some system of native titles. The Concessions Ordinance should also include some provisions requiring concession holders to develop their holdings or withdraw. While history precludes the possibility of successfully abolishing the Concessions Court, the experience of the Gold Coast seems to show to other colonies that executive control over land transfers is much more satisfactory than judicial control from the standpoint of protecting native interests in the land.[37]

7. *The Mines*

The chief form of European industry in the Gold Coast is mining. The first commercial gold mining began at Tarkwa in 1879. At present, the annual output of gold amounts to about eight hundred and seventy-five thousand pounds. In 1914, manganese was discovered, the exports of which have increased from about four thousand tons in 1916 to three hundred and forty thousand tons in 1926. Diamonds have recently been found in the Eastern Provinces and in 1926-27 exports amounted to 363,000 pounds. All of these mines require native labor. In 1924-25 a total of 10,338 men was employed in the gold mines alone.[38] Nearly two thousand natives were employed on the manganese mines, practically all on surface work, and eight hundred and twenty-five on the diamond mines. The total native labor employed on these mines was therefore about 13,000.

The railways employ four thousand laborers, and the Harbors 2724, making a total of nearly twenty thousand natives in industrial employment, not including those working in cocoa, transport, agriculture, and the timber trade, and those otherwise employed by the government.[39]

[36] A Gold Coast native's point of view is presented by Casely Hayford, in *The Truth About the West African Land Question,* Chaps. IV, V.

[37] The Palm Oil Ordinance and the concessions issued under it are mentioned in connection with a similar ordinance in Sierra Leone, cf. Vol. I, p. 809.

[38] Six thousand seventy-one were employed on surface work and 4,267 underground. *Report on the Mines Department,* 1924-1925, p. 5.

[39] *Minutes of the Legislative Council,* 1924-1925, p. 6.

According to the 1921 census, there are about twelve thousand persons employed as clerks. The Gold Coast Handbook estimates that scarcely two per cent of the total population has been withdrawn from the age-old occupations of tilling the soil, hunting, and fishing.[40] Taking the adult male population at four hundred and fifty thousand (and excluding alien laborers), it would appear that not more than twenty-five thousand or about five per cent of the males are in European employment.

In view of the relatively small number of natives thus employed, one might assume that there is no labor shortage in the Gold Coast. But the contrary is the case. The Acting Civil Commissioner of the Tarquah District as early as 1882 wrote that "the Natives of these parts are bad workers, and are employed as little as possible at the time . . . Captain Burton and Cameron strongly advocate the importation of coolies." [41]

In 1910 the annual report of the West Africa Chamber of Mines said: "The local supply of native labourers is well-nigh exhausted and the Industry is faced with a serious shortage." They believed it was necessary to import laborers.[42] In 1923-24 the Mining Department declared that the Tarquah mines could increase their production at least a thousand tons a month if the labor were available.

The supply of labor in the mines has varied with the productiveness of native agriculture. Thus in 1911, seventeen thousand men were employed and during the War—1917—the number rose to nineteen thousand; but in 1920—the cocoa boom year—the number fell to 11,250.

In view of the local labor shortage, the mines have resorted to more remote sources, the first of which is foreign areas, and the second the Northern Territories. Nearly half of the mine labor comes from outside territories such as Liberia and the French colonies, particularly the Ivory Coast and the Upper-Volta, while a few laborers come from southern Nigeria.[43]

In 1921, the Gold Coast government arranged with the government of Nigeria to allow Nigerian labor to be recruited for the Gold Coast. It appears that the administrative officers, in some Nigeria districts at least, gave their assistance to such recruiting. But it proved a failure, and to-day there are only about three hundred and sixty such laborers employed on the mines.

At the present time, the Mines rely upon the Northern Territories of the Gold Coast for about twenty per cent of their labor—or nearly three thousand men. The Mining Department in its 1923-24 report, says,

[40] *Handbook,* 1924, p. 356.
[41] Quoted, *Report on the Mining Department,* 1923-24, p. 5.
[42] *Report,* 1910-1911, p. 93.
[43] Schedule H, *Report on the Mines Department,* 1924-25.

"The reluctance of the Northern Territories' boys to leave their country, and of their Chiefs to let them go, is intensified by the dislike of underground work, and the comparative unimportance to them of the possession of money militates against the force of the attractions of high wages and short hours." In 1911, the Chamber of Mines sent a deputation to interview the Colonial Secretary, Mr. Harcourt, in regard to such labor. He expressed the opinion that the experiment of bringing boys down from the Northern Territories had proved a failure because the "men did not come willingly"—an opinion with which the Chairman of the Chamber, Lord Harris, agreed.[44] Plans to import further men from the Northern Territories were nevertheless made. But the mines, insisting that they must have government intervention, declared: "The first step that a chief would take upon being approached by a Labor Agent would be to go to the District Commissioner and ask him if all were in order. . . . Were the Commissioner even to tell the Chief that it was purely a matter of mutual arrangement between his people and the agent, and that they must judge of the merits of the latter's proposal, without interference, the efforts of the recruiter would be rendered of no avail. . . ." The mines had no wish to "force" laborers into their employ, but they did want the Governor to issue an order instructing commissioners to "support" recruiting in the Northern Territories.[45]

It appears that the government at this period attempted to aid the mines in finding laborers and that such labor was actually recruited, for a time, by the government Transport Department. But as a shortage continued to exist, proposals were made in 1912 to import East India coolies and Chinese labor, an idea which met the opposition of the Secretary of State.[46] Throughout this period, the mines had no means of preventing a Northern Territories' native from returning home at his pleasure, since desertion was not a penal offense in the Master and Servant Ordinance of 1893.[47]

The 1911 deputation urged the adoption of a penal sanction for desertion upon the Colonial Office, but it declared that in view of the strained feeling of the natives toward the government[48] it could not at that time meet the demand. An amendment to the Master and Servant

[44] *West Africa Chamber of Mines, Annual Report,* 1910-1911, p. 91.
[45] *Ibid.,* p. 113. This line is very similar to that of the Governors of East Africa to-day. Cf. Vol. I, p. 550.
[46] *Gazette* No. 15 of 1912. *Minutes, Legislative Council,* January 27, 1912.
[47] Master and Servant and Foreign Employment Act, Chap. 77, *Laws,* p. 750. This ordinance merely provided that the court might grant damages, or a fine of five pounds. In default of payment, the party would be liable to not more than three months in jail.
[48] Cf. Vol. I, p. 802.

Ordinance was finally passed in 1912, which authorized the Governor to make rules dealing with the return to employers of servants who have deserted. The Governor, however, did not issue any such rules, and the mines consequently were not satisfied. However, in 1921 the Legislative Council passed a Regulation of Employment Act, which, for the first time in the history of the Gold Coast, made desertion a penal offense.

In 1921, the Gold Coast Chamber of Mines organized recruiting on a large scale from the Northern Territories.[49] As a result of these efforts, a number of unfit men and boys were recruited, some of whom "were tuberculous, and soon broke down under the strain of underground work to which they were unaccustomed. . . . Some were physically unfit, some were infected with Anchylostomes and others suffered from defective sight, ulcers and deformities." [50]

Unsatisfactory housing conditions, inadequate water supply and medical arrangements further contributed to a high death rate. In 1923-24, the death rate from all causes for Northern Territories' boys was 75.27 per thousand and in 1924-25 it was 60.48 per thousand, a figure which the Department of Mines called "dreadfully high." [51] In contrast, the rate for local labor was only 12.96 per cent. While it was more difficult to obtain accurate statistics for local labor, which is largely casual, it seems clear that the death rate of recruited laborers—coming hundreds of miles from their homes—is much greater than that of local laborers working in familiar surroundings.[52]

The death rate became so high on the Gold Coast mines that the Secretary of State for the Colonies prohibited recruiting of boys from the Northern Territories in July, 1924, and sent Professor Sir William Simpson, an expert who has made a large number of studies on sanitation in various parts of the Empire, to investigate. As a result of his recommendations, the government enacted a Mining Health Areas Ordinance, 1925, under which it issued regulations providing for the compulsory medical examination of labor recruited outside the Colony and also for proper housing and medical care.[53] As a result of these measures, condi-

[49] Charges were made that officials assisted in this recruiting, which were denied by the Gold Coast Government. Nevertheless, the Secretary of State for the Colonies said: "I have decided that the assistance given to recruiting by political officers in the Northern Territories must cease." *H. C. Debates,* June 23, 1924, Col. 8, Vol. 175.

[50] Professor Sir William Simpson, *Report on the Sanitary Condition of the Mines and Mining Villages in the Gold Coast Colony and Ashanti,* London, 1925, p. 5.

[51] *Report on the Mines Department,* 1924-25, p. 9.

[52] The statistics for Portuguese labor in the Union of South Africa bear out the same conclusions, Cf. Vol. I, p. 33.

[53] These regulations lay down rules in regard to latrines and incinerators. Mines shall provide an ample and pure water supply and suitable housing. In

tions improved to such an extent that the Colonial Office again authorized recruiting in March, 1925. The death rate now is only 8.3 per thousand —which constitutes a vast improvement over former conditions.[54]

8. *Free Labor*

The Gold Coast follows other British colonies in exacting not more than six days of labor per quarter from all able-bodied men for the purpose of maintaining any road, as ordered by the Governor. Unlike other British colonies, the Gold Coast provides for the payment of chiefs at a rate of not less than five shillings or more than one pound a mile.[55] There is a danger, however, that under this system the laborers will not receive any of these payments which are in themselves inadequate.

At the present time, there are about four thousand miles of roads in the Gold Coast of which all but fourteen hundred miles are maintained by this system of virtually unpaid labor.[56] The observations made in regard to this free labor in connection with Nigeria [57] apply with equal force to the Gold Coast. Such a system cannot legally be applied in the mandated territories of Togoland.

As far as work for the Railway and Public Works Departments is concerned, the Governor has recently stated that "in no single instance has there been anything approaching forced labour in the work of development of the past seven years." He continued: "Indeed, I can find no record of forced labour in the Gold Coast in the present century." [58]

the case of every mine having a thousand or more laborers, a European village master shall be appointed. Every house in which plague, cholera or a number of other diseases have occurred shall be disinfected. Plans for new native villages are subject to the approval of the government. No street shall be less than thirty feet wide, and there shall be a space of at least eight feet between buildings or huts on the same side of the street. No room shall be occupied by more than one man or man and his wife. Floors shall be cemented. Each room shall be provided with a bed. The management of every mine employing five hundred or more persons shall appoint a whole-time medical officer, and provide hospital accommodation which, in the opinion of the government, is suitable and adequate. The management of every mine employing two hundred persons shall appoint a dispenser and provide a dispensary. An inspecting officer, after due notice, may inspect any Mining Health Area.

[54] Statement of Mr. Ormsby-Gore, *H. C. Debates*, July 6, 1926. Col. 1870.

[55] Roads Ordinance, 1899, *Ordinances*, Vol. II, p. 1042.

[56] Fourteen hundred miles are so-called "motorable" roads which are maintained by the Public Works Department which pays its laborers about eighteen pence a day in the Colonies, and about one shilling a day in the Northern Territories.

[57] Cf. Vol. I, p. 657.

[58] *Review of the Events of 1920-1926, cited*, p. 85. In 1900, however, Governor Sir F. M. Hodgson reported that one of the grievances of the natives was "the compulsory supply of carriers." Cd. 501 (1901), p. 10.

CHAPTER 51

HOME RULE ON THE GOLD COAST

The results of European education are much more apparent in the Gold Coast than in Nigeria. Pioneer work has been done by the Basel Mission, the Bremen Mission, the Roman Catholic Mission, and the Wesleyan Society, while the government has also established a number of schools. The fruits of this effort are an intelligent class of Africans who are found in the towns of Accra, Cape Coast, and Sekondi and elsewhere. Twelve thousand of them find employment as clerks, teachers, and clergymen; fifty practice law, and eleven practice medicine. A number also are cocoa brokers.

While these Africans have not lost all contact with their tribes, as has the educated class in Nigeria, they nevertheless have demanded some participation in the European administration of the Colony.

1. *African Civil Servants*

The response of the government to this demand came in a statement made by the Governor in 1921: "The Government's policy is to employ Africans who are suitably qualified by education and training in any appointment in any branch of the Government Service. Two reservations only are made—the Political Service is not open to Africans as they have opportunities of serving their country in the Oman Councils of the Stools to which they belong, while the Secretary of State does not at present contemplate the appointment of African judges."[1] According to the administration this policy is dictated primarily out of a sense of justice and incidentally out of the necessity of reducing expenditure. Under the present system of incremental salaries and pensions, government expenditure will automatically increase 267,000 pounds within the next ten years. The most effective way to cut down this sum is to fill vacancies in European appointments with Africans.[2]

An African receives one-sixth less salary than a European, and conse-

[1] *Legislative Council Debates*, 1926-27, p. 17.

[2] In 1920, the Gold Coast Government, owing to the fact that it had gotten into arrears with its construction of public works, because of the War, adopted a Ten-Years Development Program, providing for the construction of harbors (the chief one of which is at Takoradi), railways, roads, posts and telegraphs, public buildings, etc. This program is financed partly out of loans and partly out of current revenue. Cf. Table, *Ibid.*, p. 78.

quently a smaller pension. An African obtains leave for nearly three months at the end of every two years' service, while the European is absent from duty about six months out of every two years. The fact that an African receives less than a European for the same work is justified, in the eyes of the government, on the ground that he is living in his own country.

Since 1919, the government has appointed thirty-eight Africans to positions formerly occupied by Europeans, including two police magistrates, a Crown counsel, an Assistant Secretary for Native Affairs, two Assistant Treasurers, a chief audit clerk, four medical officers, two inspectors of schools, one headmaster, and one headmistress, a deputy Vice-Principal of Achimota College, three assistant Superintendents of Agriculture, two assistant Commissioners of Police, two surveyors, one African probationary engineer, two assistant railway accountants, and an assistant government printer, etc. Further progress will depend upon the success of Achimota.[3]

The government has adopted the definite aim of eventually replacing half the European officials by Africans; *i.e.* within the next twenty years the number of Europeans employed in the government will be decreased by one hundred and sixty-two, while the number of Africans will be increased by two hundred and one, provided sufficiently educated Africans present themselves for appointment. This program should give an outlet for some time to come for those educated Africans who do not care to return to their tribes. No other colony in Africa has mapped out such an ambitious and such a liberal program. It is only fair to add that no other colony in Africa has a class of Africans capable of taking advantage of such a program.

2. *Aborigines' Rights Protection Society*

While the educated class has welcomed this development, it has apparently been more interested in securing representation on the Legislative Council.

Many of these educated natives belonged to what is called the Gold Coast Aborigines' Protection Society which came into existence in connection with the opposition offered to the Land Bill in 1897.[4] At that time, the Gold Coast Governor congratulated the chiefs and commoners upon the formation of this Society and said that the government looked to the Society "for ready assistance and cordial cooperation at all times in the difficult task of beneficial government."[5] The Society is composed of

[3] Cf. Vol. I, p. 848.

[4] Cf. Vol. I, p. 818.

[5] These are the words of the Constitution of the Society, printed as Appendix A to the Memorandum "A" which accompanied the Petition to the Crown against the Gold Coast Colony (Legislative Council) Order in Council, 1925.

most of the chiefs of the central province together with a number of traders, lawyers, and other natives at Cape Coast Castle and elsewhere. Sir H. C. Belfield reported: "There is no doubt that the inception of the Society was due to the expressed wish of the chiefs themselves, and that they take as active a part in its proceedings as any of the educated members." He defines its purpose as one "of opposing and blocking any action by the Government or by any persons which may, in the opinion of the members, be subversive of their interests or likely to be prejudicial to their native customs or their canons of land tenure." [6]

Each member undertakes to contribute annually to the Society the sum of ten pounds, which is supplemented by special contributions when any movement is anticipated. Thus in the campaign against the Forest Ordinance, such contributions ranged from ninety pounds to three hundred and fifty pounds. According to Sir H. C. Belfield funds were subscribed by chiefs alone; the lawyers, however, contribute their services gratis.

In the past, native opposition to government policy has been led by the Protection Society, and the most recent and important contest has been over the Legislative and Provincial Councils. In their petition against the Crown Land Bill of 1897, the Gold Coast Deputation respectfully submitted that the time had come when they "should be allowed to take part in the work of legislation" for their native land. Toward this end, the kings and chiefs should elect eight members to the Legislative Council, according to provinces. Between 1883 and 1926, the Gold Coast Legislative Council contained, however, only nominated unofficial members. The last constitution, granted in 1916,[7] provides for twelve official members, and a number of unofficial members appointed by the Governor, which came to be fixed at nine. Three of these were head chiefs representing the country natives; three were educated African lawyers living in the coast towns; and three were Europeans, representing commercial mining and banking interests.

Following the World War, a demand arose from all of the West African Colonies for elected representatives. While this request was first satisfied in Nigeria and Sierra Leone, it appears that it originated in the Gold Coast. The immediate cause of this demand was the enactment by the official majority of the export duty on cocoa and palm oil in 1916, under instructions from the Colonial Office, and over the heads of the unofficial members.[8]

[6] *Report, cited,* Cd. 6278, para. 162.
[7] Cf. the Letters Patent, Sept. 20, 1916. *Statutory Rules and Orders,* 1916, p. 227.
[8] Cf. Vol. I, p. 815.

3. *African National Congress*

In March, 1920, a conference of representatives of the four West African colonies[9] was held at Accra, where the National Congress of British West Africa—modelled apparently after the Indian National Congress—was organized. Because of the fact that the Nigerians who first participated in this congress did not happen to belong to the Nigerian Democratic Party, the predominant political group in Lagos, Nigeria has not participated very vigorously in the congress, which is consequently dominated by the Gold Coast Africans. The headquarters of the organization are in Sekondi, while branches are maintained in each colony. Annual congresses are held.

At the first congress, held in 1920, a number of resolutions were passed, the most important of which dealt with the franchise. The congress asked that a Legislative Council should be established in each colony, half of the members of which should be nominated and half elected. A House of Assembly should also be established, composed of the members of the Legislative Council together with six other "fianancial" representatives elected by the people, "who shall have the power of imposing all taxes and of discussing freely and without reserve the items on the Annual Estimates. . . ." This plan would thus give the Africans control over revenue.

In October, 1920, the congress sent a delegation to England which, with the aid of London barristers, submitted petitions asking the Colonial Office to adopt this reform. It also discussed West African affairs with such bodies as the League of Nations Union.[10]

In the midst of these discussions, the Governors of the Gold Coast and Nigeria informed the Colonial Office that the congress was "in no way representative of the Native Communities on whose behalf it purports to speak."[11] In reply, the congress produced evidence to show that it had the support of leading Africans—and to-day it appears that this is true so far as the educated classes of Sierra Leone and the Gold Coast are concerned.[12]

[9] Sierra Leone, Gold Coast, Gambia, and Nigeria. The writer did not visit Gambia. It is understood that Gambia has not yet received a Legislative Council having elected members.

[10] *Report of the Proceedings of a Meeting between the League of Nations Union and the Delegates of the National Congress of British West Africa.*

[11] Several chiefs on the Gold Coast (and several educated Africans in Nigeria) expressly repudiated the congress. This body did not improve its position by memorializing the Colonial Office without first informing the local government. Cf. "Further Correspondence Relating to the National Congress of British West Africa," *Gold Coast Sessional Paper X. 1920-1921,* p. 14.

[12] In opposing the "obnoxious system" of direct taxation which the government is attempting to introduce into Lagos, the *Gold Coast Leader* (March 26, 1927) has said that if it is successfully collected there, it will be applied to the

Nevertheless Lord Milner, Secretary of State for the Colonies, decided that the time had not yet come either for the principle of election or of official majorities on the West African Legislative Councils. But shortly afterward, the Colonial Office reversed its opinion and granted the principle of election to the Nigeria Council.[13] In the following year, the Gold Coast Government invited the chiefs and also the Aborigines' Rights Protection Society to submit suggestions designed to "reconcile elective representation with the rule" of the Oman or chief. It declined to make any recommendations as to the elective principle until this reconciliation could be effected.[14] Thus, it paid more attention to the tribal interests of its country than did the Nigerian Government.

4. *Local Self-Government*

Meanwhile the administration introduced into the Legislative Council, in 1924, a Municipal Corporations Bill, designed to grant local self-government to the natives of Accra and other cities. Ever since 1894, the towns of the Gold Coast have had Town Councils,[15] half of whose members are elected by the ratepayers and half nominated by the Governor. Since the chairman, who is appointed by the Governor, has a casting vote, the councils have in effect an official majority. The chairman also acts as treasurer. The councils may impose local rates on houses, and lands and other objects; and they have certain administrative powers.

Several commissions have pointed out that because of the official majority, the elected African members have no real responsibility imposed upon them—a condition which has "bred indifference to the work of the Council" and "fostered ignorance as to their constitutions and duties."[16] The people of the towns have been largely unconcerned with this system. Out of 1117 persons on the Accra voting list, only forty-six voted in the 1922 elections; and out of seven hundred and seventeen persons in Cape Coast, none voted. In Sekondi, there were two votes out of two hundred

Gold Coast, Sierra, Leone, and Gambia. "We believe it will occur to every sensible African that under the conditions in which we live with our rulers closing in upon us at every stage it is imperative for us the people of British West Africa to come together and to think and act together. . . . We must strike for a measure of control over our affairs which will render us less and less the butt of political experiment by our rulers. At present, we have firmly established the National Congress of British West Africa, and we are appealing to all patriotic sons of the soil to arouse themselves, and make a determinate stand for liberty and justice."

[13] Cf. Vol. I, p. 740.

[14] *Legislative Council Debates,* 1923-24, p. 65.

[15] Town Councils Ordinance, Chap. 66, *Laws,* p. 679.

[16] "Report by the Town Councils Committee on the Constitution and Working of the Existing Town Councils in the Colony." *Sessional Paper XVII,* 1922-23, p. 17.

and ninety-nine.[17] On four occasions, unofficial members had to be nominated by the government because of the failure of candidates to present themselves for election.

In 1913, a commissioner wrote, "To my mind the attempt to impose suddenly on a native community, having its own established organization, a constitution, whether it be municipal or otherwise, of gradual and exotic growth is doomed to failure and I am sure that native interest could only be properly stimulated by some form of local government based on the existing political structure." [18] In 1923, the Town Council's Committee similarly declared that the "English system of local self-government is foreign to the African genius. . . . It is absurd to expect the African to assimilate in a few years a political system which is the growth of centuries in its home and which, while not necessarily opposed in principle to his accustomed constitution, is the product of an alien civilisation and is entirely new to him in its detailed application. . . ." [19] Except for the recommendation that the Paramount Chief of the locality should be given a right to sit on the Council but not speak or vote, the Committee did not make any recommendations as to how native institutions and this type of municipal government could be reconciled.[20] It simply advocated giving more power to town councils which should be recognized on the basis of elective majorities.

Acting upon this report, the government brought about the enactment in 1924 of the Municipal Corporations Ordinance,[21] which authorizes the establishment of Municipal Councils having majorities of elected members, serving for three years.[22] The Governor may also appoint members not to exceed one-third of those elected to the Council. To be eligible to be

[17] F. G. Crowther, et al., *Report on Operations of Town Councils,* Accra, 1913.

[18] *Ibid.*

[19] *Sessional Paper XVII, 1922-23, cited,* p. 20. It also declared (p. 23) that "the grant of full democratic institutions to a community before the general body of the people is fit and ready to exercise its powers and duties is a very dangerous proceeding. It frequently results in the concentration of power in the hands of a few persons who have neither the training nor the traditions behind them which would enable them to administer the government as trustees of the people and not for their own ends; while the people themselves are divorced from the guidance and rule of their natural leaders."

[20] It implied on the other hand, that they should eventually give way to British forms. "As new people and nations have come within the orbit of the Empire they have come under the influence of its political institutions and as they have fitted themselves for those institutions so have their privileges been extended to them. The process, to be sure, must be gradual, but at the same time it must be steady and continuous and it must incorporate the best features of the indigenous institutions of the nations concerned. . . ." *Ibid.,* p. 68.

[21] No. 29 of 1924.

[22] In case the town has a population of less than ten thousand there shall be twelve members. In case it has more, fifteen members may be elected.

a councillor, one must be conversant with the English language. Both men and women are eligible to office and both may vote, provided they occupy or own property the annual value of which is not less than five pounds. No literacy test is required. Voting for councillors takes place by wards. A person whose claim to be registered is rejected may appeal to the British courts. The Attorney-General as well as a native returning officer may prosecute charges of corrupt practices in the English courts.

The Council, thus elected, selects from among its members a mayor and deputy mayor. It appoints a person, not a member of the Council, as town clerk, and a treasurer, who has charge of the town fund.[23] The Council fixes the remuneration of officials, subject to the approval of the British Government. It may levy a town rate and draw up estimates, subject to like approval. To determine the value of property upon which rates are levied, the Council appoints valuing assessors. Any one discontented with their decisions may appeal to the police magistrate—a European official.

While the municipal officers may thus be Africans, the Governor appoints a health officer and a municipal engineer, who serve as nominated members of the Council. If it appears from the reports of these officers that the public health or building ordinances, etc., are not being enforced by the municipal authorities, representations may be made to the Governor. In case the Council fails to perform its duties in these or in other respects, the Governor may appoint a temporary board of three or more persons to perform any particular duty; and when the Council persistently makes default, the Governor may order its dissolution.

The Municipal Council is responsible for carrying out the provisions of a large number of ordinances and provisions of the Gold Coast Criminal Code, dealing for the most part with the suppression of nuisances, the imposition of licenses, and health matters. It must also maintain the roads, public latrines and dust-bins; and it is responsible for the removal of refuse, the water supply, lighting, markets, and pounds, and the inspection of foodstuffs. It may lay down building regulations and control congested areas. Persons violating by-laws of the Council on such matters are liable to a fine of five pounds. The Governor may transfer any powers which are exercised by a government department to the Town Council.

The accounts of the Council, kept by an African treasurer, are annually audited by the British government.

[23] No payment may be made out of the Town Fund except under the authority of the Council; and every payment exceeding two pounds shall be made by check signed by two members of the Council and countersigned by the Town Clerk.

Such is the carefully worked out plan for municipal self-government under a system of councils having elected majorities and African municipal officials. Two types of checks are imposed: an African may appeal to the British courts if he feels that his rights have been infringed upon; while British medical officers and engineers continue to supervise sanitation. The government has appointed an administrative officer to assist in the establishment of these Councils.

It was announced that the government would not grant towns elective representation in the Legislative Council of the Colony until the towns had adopted this system of self-government and thus demonstrated their capacity to govern themselves in local matters.[24]

The connection of these two measures was vigorously opposed by many African leaders who declared the Municipal Corporations measure meant increased taxation and that it interfered with existing native institutions. The natives of Accra at the present time are ruled by their head chief, the Ga Mantse, and a number of sub-chiefs. At a meeting of the Accra people in 1921, the Ga Mantse moved a resolution expressing sympathy with the government's plan for municipal administration, "provided always that the proposed reorganisation does not in any way infringe upon the rights, duties and privileges of the Chiefs of the Colony and Native Custom." The passage of the Municipal Corporations Ordinance in 1924, apparently with the Ga Mantse's approval, took place without the publication of the bill two weeks previously in the *Gazette,* as is the custom with legislative proposals. Some of the people took offense at this abruptness, and started a movement to destool the Ga Mantse on the ground that he should have informed them of the pending ordinance, which they opposed, not so much because it interfered with native institutions, as because it meant new taxes. Following a series of incidents which it is not necessary to recount here, some natives who had previously opposed the Ga Mantse on another issue held a meeting and pronounced his deposition. Upon investigation, the government came to the conclusion that the Ga Mantse had not been destooled in accordance with native custom, but that this action had been taken by an unruly mob which did not represent the people nor follow native forms.[25] Consequently, it continued to recognize him as the ruler of the town. The relationship of the Ga Mantse to the municipal organization is not, however, clearly established. Presumably his tribunal will continue to function as there is no provision in the Municipal Corporations Ordinance for the establishment of municipal

[24] Cf. *Legislative Council Debates,* 1925-26, p. 143.

[25] "Report of an Inquiry under the Commissions of Inquiry Ordinance," *Sessional Paper, X–1925-1926.*

tribunals, except that the mayor is ex-officio a justice of the peace.

Feeling in Accra against the new scheme continued to be so tense that the government appointed a commissioner to inquire into the objections of the people. He reported that public opinion was emphatically against the scheme, and that the people were suffering from financial depression.[26]

Nevertheless, the government clung to its position that the people of Accra should put the system into operation before they could elect members to the Legislative Council.

Inasmuch as many features of this municipal constitution are alien to native ideas, native objections to the scheme are easy to understand. Despite the fact that they contain an overwhelming majority of native inhabitants, the cities of West Africa have been built on European lines, and they are the centers of European business enterprise and government activity. These cities are, therefore, the last areas in a colony which the natives can be expected to govern successfully. A tardy recognition of this fact led the government to announce in December, 1926, that the application of the municipal ordinance would be postponed.[27]

5. *The New Constitution*

Meanwhile, in May, 1925, a new constitution was granted the Gold Coast, which provided for the establishment of a Legislative Council of fifteen official and fourteen unofficial members.[28] Of the fourteen unofficial members, five are Europeans—three members nominated by the Governor to represent shipping, banking, and mercantile interests; one elected by an electoral college selected by the Chambers of Commerce, and one chosen by the Gold Coast Chamber of Mines. Of the remaining nine African members, three are to be elected by the towns—one each from Accra, Cape Coast, and Sekondi. The electorate of the town, as prescribed in the Municipal Corporations Ordinance, is the electorate for the municipal members of the Legislative Council.[29]

The six other African members are "Head Chiefs" elected in each of the three provinces of the Colony by a Provincial Council of Head Chiefs. The Provincial Council of the Eastern Province elects three representatives; the Central Province two, and the Western Province one—

[26] "Report on Objections to the Municipal Corporations Ordinance," *Sessional Paper I, 1925-26,* p. 12.

[27] Statement to Legislative Council, November 16, 1926, *Gold Coast Leader,* December 4, 1926.

[28] Letters Patent, May 23, 1925, *Gazette,* December 10, 1925, p. 1816. The old council had eleven official and nine unofficial members.

[29] Order in Council, April 8, 1925, XX (2).

in accordance with population. The Council of the Eastern Province is divided into three sections, one chief being selected from each of the Ga, Ewe and Akan sections. Each member of the Council has one vote for every ten thousand inhabitants in his division or stool. The government hopes that these Councils of chiefs will, in addition to performing this elective function, also serve to strengthen tribal authority.[30]

6. *Attack Against the Provincial Councils*

Notwithstanding the recognition of the elective principle, the educated Africans vigorously attacked the new constitution on the ground that it gave undue representation to the chiefs in comparison with the educated classes in the towns, and that in establishing these Provincial Councils and providing for the representation of chiefs on the Legislative Council, the government had violated native custom. The three cities of the Gold Coast, having a combined population of about sixty-three thousand, have three representatives, in comparison with Lagos and Calabar in Nigeria, who together have four representatives. Lagos and Calabar contain, however, nearly twice the population of the three Gold Coast cities. In contrast to the three Paramount Chiefs who are nominated members of the Sierra Leone Council, six paramount chiefs will represent the natives of the Gold Coast. From these figures it would appear, therefore, that the city population of the Gold Coast is as well represented as the city population of the other West African colonies, but that the country natives on the Gold Coast receive a greater representation in the Gold Coast than elsewhere. In all of these colonies the country population outnumbers that of the city ten to one. On the other hand, practically all of the country natives are illiterate. Moreover, while in Sierra Leone and in Nigeria the chiefs or representatives of the chiefs are nominated by the Governor, in the Gold Coast they are elected by the chiefs.

The establishment of these Provincial Councils will, according to native leaders, tend to create a division between the chiefs and the educated class in the Gold Coast. In the good old days, they assert, the Gold Coast chiefs could do nothing without the consent of their councils. Yet through the Provincial Councils, they will exercise large powers which these elders cannot control as they should according to native law. According to custom, a chief may only speak in public through his linguist and in the vernacular. Yet he is obliged to take a personal part in the debates of the Legislative Council. On the other hand, only one or two chiefs in the colony know English, and it is urged that the others, being illiterate, would be under the thumb of the administration. Native leaders assert

[30] Cf. Vol. I, p. 810.

that the elections of the Provincial Councils are already under such control.[31]

This effort of the educated commoners, represented by the Aborigines' Rights Protection Society, to reduce the Gold Coast chiefs to the position of figureheads, was strangely inconsistent with the past policy of the Society which had resolutely supported native institutions against imagined encroachments of the government. This new position was, moreover, inconsistent with the previous utterances of the leader of the Society, Mr. Casely Hayford, who a number of years ago wrote in his book, *Gold Coast Native Institutions,* as follows: "At the head of the native state stands prominently the Ohin (king), who is the Chief Magistrate and Chief Military Leader of the State. He is first in the Councils of the country, and the first Executive Officer. His influence is only measured by the strength of his character. He it is who represents the state in all its dealings with the outside world; and, so long as he keeps within constitutional bounds, he is supreme in his own state."

It appears that the African leaders would be satisfied if the chiefs were allowed to elect any African—and not merely a chief—as their representative. This proposal, somewhat inconsistent with the arguments made against Provincial Councils, would, the government believed, eventually place the representation of the chiefs in the hands of the barrister class, which already has three seats.

It was also argued that the division of the chiefs into three Provincial Councils struck a blow at the national unity of the Gold Coast people, represented by the Aborigines' Rights Protection Society. One African paper declared, "We cannot too often remind our people that the Gold Coast Aborigines' Rights Protection Society took up the work just where the Fanti Confederation [32] left it; and, whereas in the Confederation days the assembly at Mankesim was the national assembly of the people, so is the assembly today of the Aborigines Society at Cape Coast the national assembly of the people." [33] The efforts of the government to establish Provincial Councils were an attempt to disunite the people. The situation was, according to the same paper, "one of life and death with us as a people." It continued: "We have said before that there is no harm in the Chiefs of a Province meeting and discussing their own domestic affairs, but when it comes to coaxing the same Chiefs provincially to settle matters

[31] *The Gold Coast Leader* declared (May 22, 1926), "The issue is one of life and death with us, for if you perpetuate the possibility of the return of dummies to the Legislature, our national independence is gone forever. Probably that is what has been aimed at all the time, to so gag the people that while they have a machinery ostensibly of an advanced type, yet to be truly and really voiceless in the affairs of their own country. . . ."

[32] Cf. Vol. I, p. 796.

[33] *Gold Coast Leader,* July 10, 1926.

common to the whole country and apart from the sub-Chiefs and the people, then we are bordering dangerously upon the stage of disruption which will end all our national aspirations. . . . Either we dissolve the Gold Coast Aborigines' Rights Protection Society, or maintain it at all costs. If we suffer it to be dissolved, the prop of our nationhood is destroyed." [34]

In reply the government stated that the Provincial Councils had their origin in native custom, that the Eastern Province Head Chiefs met in Council in 1828, in 1852, in 1874, and again in 1918, and that the Central Head Chiefs had also met together in 1852 and in 1868.

The arguments against the Provincial Councils were vigorously urged upon Mr. Ormsby-Gore, the Under-Secretary of State for the Colonies, on his visit to West Africa in 1926, by a representation of the Congress of British West Africa and the Aborigines' Protection Society. They were also vigorously presented in the Legislative Council by several nominated members, and in the local press. In the fall of 1926, the Aborigines' Protection Society sent a delegation to the Colonial Office in London, asking for the amendment of the constitution.[35]

While the educated element thus protested against the constitution, a number of chiefs supported it. One of them declared in the Legislative Council, "There is nothing to fear as to the Provincial Council breaking the constitution, or the institutions and customary laws of this country. On the contrary, it will tend to the solidarity of the Native Administration." He quoted from books written by Gold Coast Africans, who now opposed the constitution, to the effect that a Gold Coast king had real power. He also declared that the king would merely act as the representative of his people on the Council. The linguist could accompany the chief and advise him at meetings of the Legislative Council.[36]

Meanwhile, the government went ahead with preparations for the meetings of the three Provincial Councils, which met on the seventeenth of May.[37] In the Central Provinces, eleven out of the twenty-two head

[34] In its petition to the King against the Council, the Aborigines Rights' Protection Society declared that the "National Federal system of the people of the Gold Coast finds its expression in the Society" and that the "creation of the Provincial Councils must tend to the disruption of the Society and the destruction of the national spirit and sentiment. *Ibid.*, December 4, 11, 1926.

[35] The text of the "Humble Petition" to the King is printed in *Ibid.*, December 4 and 11, 1926. The petition as accompanied by "The Memorandum marked A." "In the Matter of the Gold Coast Colony."

[36] *Legislative Council Debates*, 1926-27, p. 345 ff.

[37] According to the Legislative Council Electoral Regulations (Regulation 8 of 1926), each member of the Provincial Council may be accompanied by four of the councillors of the stool who cannot vote or take part in the proceedings, but merely advise.

The provincial commissioner prepares a schedule showing the number of

chiefs put in their appearance and elected their two representatives; in the Eastern Province, chiefs from eleven out of the twelve divisions met and elected three councillors.[38] While the Provincial Council of the Western provinces met, it flatly declined to elect a representative. One of the reasons advanced was that they already had a conference of Natural Rulers in the form of the Gold Coast Aborigines' Rights Protection Society. Since this society had discussed the resolutions at a special conference, the chiefs did not wish to discuss the matter outside of the Society.[39]

Inasmuch as none of the three towns had put in operation the Municipal Corporations Ordinance by 1926, no elections were held for municipal members. Finally realizing the difficulties of connecting up local self-government with elections for the Legislative Council, the Gold Coast Government asked the Secretary of State to withdraw this restriction and allow the municipal members to be elected at once. But as time was required to secure an amendment to the Letters Patent to this effect, the government nominated a municipal member from each of these towns for the period of one year. Yet so strong was local feeling, that a large number of Africans who were first approached declined to serve. The members finally nominated were accused of being unrepresentative of the people.[40] Thus constituted, the new Legislative Council met in September, 1926.

These disinterested attempts to create a Legislative Council in which native institutions as well as the educated class of natives may both participate thus brought upon the government volleys of criticism and created an antagonism between the educated class and some of the chiefs which apparently had not existed before.[41] The proposal to have the

votes to which each member is entitled, and presides at the first meeting. He then withdraws, and the Provincial Council proceeds to the elections. The members may, however, request the commissioner to preside over the elections.

[38] *Gazette,* 1926, pp. 764, 841.

[39] *Gold Coast Leader,* June 12, 1926.

[40] In his address to the Council, the acting Governor protested against the "wild rumors" being circulated, one of which was that the government planned to create a super-Paramount Chief. In its editorial of September 18, 1926, the *Gold Coast Independent* virtually repeated the charge because of the support which the government was giving Chief Nana Ofori Atta in his campaign against the Aborigines' Rights Protection Society.

[41] The *Gold Coast Independent* says (August 7, 1926), "Only thirty years ago, when the Gold Coast nation had occasion to oppose the Crown Lands Ordinance, they did so as one mass—literates and illiterates working together with Paramount and Sub-Chiefs as one people. Again only in 1911, when the Forestry Bill was introduced, and the measure was opposed by the people, the same steps were taken as in 1897. What has happened since? We now see a distinct cleavage being made by Government between literates or educated natives, who are styled the Intelligentsia, and Paramount Chiefs as the true and accredited representatives of the illiterate masses, supported naturally by the political officers, as if the educated classes are some foreign breeds imported into the Colony! We find the educated leaders being spoken of as denationalized

chiefs elect their own representatives to the Legislative Council is probably sound. Yet the creation of Provincial Councils—inconsistently enough—is not based on an ethnic principle. It would seem to an outsider that if native institutions are really to be utilized, an effort should be made to organize councils upon a real tribal basis. At present, representation is controlled merely by geography.

7. *A Gold Coast Nation*

To a visitor, the controversy which is now raging in the Gold Coast seems to be due to misplaced emphasis. As a result of the present policies of the administration, the African has been led to believe that the Legislative Council is the center of the government of the colony. Perhaps it is at the present time. But under the theory of native rule, which the Gold Coast Government has accepted and which is being applied in Nigeria, the Legislative Council is merely an organ of control; and the real government of the people should vest to an ever-increasing extent in the stools. At the present time, the head chiefs of the Gold Coast have very restricted judicial powers; they have no revenue apart from court fees and fines—in itself a bad system—and some royalties, the chief result of which has been indebtedness and litigation. The establishment of a native judicial system, in which the Court of the Paramount Chief is definitely recognized as supreme over the courts of sub-chiefs, and the establishment of native treasuries, fed by direct taxes, would do much toward restoring the strength of native institutions. Such indeed is the object of the new Native Administration Bill. The Provincial Councils under this bill will become the real source of native law. As a chief declared at a meeting of the Legislative Council, "the Provincial Council will be the backbone of Native Administration." [42]

The activities of the Councils in this respect will undoubtedly become much more important than the mere selection of representatives on the Legislative Council at Accra.

The goal of the Gold Coast should not be an African Legislative Council—which as at present constituted is a European device. Its goal should be a united African nation, governed by institutions of local origin. The Fanti people are a great nation. They attempted to establish a government of their own in 1873—the Fanti Confederation. It failed because of British opposition. But could not the idea be revived to-day? Such a Confederation, composed of chiefs and elected representatives, could eventually be given funds of its own with which it could provide for national

or detribalised, and not in any sense the leaders of the illiterate masses, but usurpers of the rights and powers of the Paramount Chiefs."

[42] *Legislative Council Debates*, 1926-27, p. 345.

needs. A development of the Provincial Council idea, such a scheme could apply the Nigerian native treasury system upon a larger scale. Thus a Confederation, which would be subject to European advice, should constitute a supreme court for native affairs to which controversies between stools and those over destoolments could be referred. It might wish to have several representatives on the European Legislative Council. But under such an institution, the weight of the government would be gradually and slowly transferred from British to native authority. This development could first be commenced in Ashanti because native machinery already exists in the form of King Prempeh's newly restored kingdom. It will be many years before an Ashanti nation on the one hand and a Fanti Confederation on the other will have gained the experience necessary to enable them to do without European advice. When this time comes and even before, the Fanti and Ashanti people, having a common origin, will cry out for unity which would have been achieved by the force of Ashanti arms many years ago, had it not been for British intervention. A Gold Coast native paper has recently said, in commenting upon the restoration of King Prempeh, "The Ashanti and the people of the Gold Coast are cousins," and "they are destined in the order of Providence to become welded together in one national unity and entity.

"It ought to be a proud thing for Great Britain to help to rear a nation in the Gold Coast and Ashanti which will form a nucleus of the yet greater nation to be, namely, that of British West Africa, with a Parliament of its own, in the way of self-government at some distant date leading up to Dominion Status." [43]

Many unsympathetic critics have dubbed the educated leaders of West Africa as "detribalized." However true the accusation may be in regard to Nigeria and to Sierra Leone, the statement is unfair as applied to the Gold Coast.[44] Virtually every educated man proudly acknowledges his membership in a native stool. Few of them look to the disappearance of their chiefs. Although they may copy European dress and read European history, they are proud of the fact that they are Africans. Largely through the fact of a common racial origin and the activities of the Aborigines Rights' Protection Society, there is a national sentiment in the Gold Coast to-day which exists nowhere else in West Africa and which can be matched on the entire continent only in Buganda and in Basutoland.[45]

[43] *Gold Coast Leader,* November 27, 1926, p. 6.

[44] Mr. Ormsby-Gore's statements about detribalized Africans were severely criticized in two editorials (December 4 and 11, 1926) of the *Gold Coast Leader.*

[45] Its spirit is represented in such books as *Ethiopia Unbound,* by Casely Hayford, London, 1911. Another writer says, "We are a nation. We have a past.

In view of the history of the Gold Coast—a history marked by the vacillation of British policy for several hundred years—which has produced an air of semi-truculent independence among the people, the administration has a more difficult task than in other West Coast possessions. But because of this very spirit of independence amongst them, the Gold Coast people under careful and imaginative guidance may eventually set an example to the rest of Africa.

We own a concentric system of government; of one Race born and bred upon our own soil. With the Akan language one can cover a seaboard, 350 miles in extent." Rev. S. R. B. Attoh Ahuma, *The Gold Coast Nation and National Conscience,* Liverpool, 1911.

CHAPTER 52

SOCIAL DEVELOPMENT

WHETHER or not the Gold Coast moves toward the goal of self-government will probably depend upon the degree to which it can adapt its native institutions to the impact of western civilization and western knowledge. Except for the mines, the economic development of the Gold Coast follows, as we have seen, native rather than European methods, and hence disturbs the traditional life and the group fabric of the people much less than in territories such as Kenya, the Belgian Congo, and South Africa, where the natives are obliged to work for European employers under unnatural conditions.

1. *Health*

Thus aided by an economic system which does not of itself produce the disintegration of native life, the Gold Coast medical service has an opportunity really to improve the physical happiness of the population and to increase the birthrate. While mortality statistics are generally lacking, they have been kept in nineteen towns, having a total population of 141,643 natives. They cannot be taken, however, as accurate.

Birth, Death, and Infant Mortality Rate in the Gold Coast

Year	1917	1918	1919	1920	1921	1922-23	1923-24	1924-25
No. of births	2,031	2,045	1,927	2,075	2,963	2,988	2,941	3,011
No. of deaths	3,164	5,083	2,524	3,233	2,916	3,283	3,285	3,591
No. of still-births	102	103	102	95	153	149	117	124
Infant mortality per 1,000 births[1]			359.6	405	247	231.92[2]	254.2	203[3]

[1] For Accra only.
[2] For the year 1922.
[3] *Report on the Births and Deaths for the period* April 1924-March 1925, Gold Coast, pp. 3, 6.

According to these figures, there were 7,098 more deaths than births over this period of eight years, and the mortality rate for this period was 23.9 per thousand. It will be noted that in the city of Accra, infant

mortality, *i.e.*, deaths during the first year, ranged betwen two hundred and three and four hundred and five per thousand. It thus appears that the population of the Gold Coast in congested centers, at least, has shown a decline. Whether or not this is due to the crowded and unnatural living conditions in the towns in comparison with the country it is impossible to say. In order to combat the march of disease, the Gold Coast Government, in addition to a medical service calling for eighty doctors,[1] has erected the finest hospital in Africa, where African doctors and dispensers will be trained.[2]

Altogether the Gold Coast has thirty-seven hospitals containing about eight hundred beds; and in 1926, the medical service treated ten thousand inpatients and one hundred thousand outpatients—less than half the number treated in either Kenya, Tanganyika, or Uganda.[3] Native welfare expenditures in the Gold Coast are higher than in any other territory in Africa, excluding Zanzibar. The financial efforts of the Gold Coast Government toward the improvement of these aspects of native life are shown by the table on the next page.

Likewise, the Gold Coast people must learn to become economically self-reliant, if they are to become worthy of self-government. Partly as a result of the agricultural service of the government, the Gold Coast farmer has become wealthy. But, as we have seen, much remains to be done before he is able to take care of the soil and his crops intelligently. Finally, the ultimate fate of the Gold Coast will depend upon the degree to which the local population absorbs the right kind of education.

2. *Education*

The educational policy of the Gold Coast has followed that of other British colonies. While the government has undertaken to operate a few schools itself—notably some very successful Junior Trade Schools—it has allowed the bulk of the educational work to be performed by the missionary societies, which it has assisted by grants-in aid. About 29,000 pounds were spent in 1924 on subsidies to mission schools, a figure which increased to 30,887 in 1926, and which will soon be increased to 70,000 pounds annually. In 1924, a total of about 30,500 children attended government and assisted institutions.[4]

Despite these efforts, the government believes that the results of the

[1] These figures are taken from the Gold Coast Estimates, 1926-1927. They include nine African medical officers and six women medical officers. They do not include the directors of the medical and sanitation services, nor the personnel connected with the Research Institute.

[2] Cf. Vol. I, p. 897.

[3] Cf. Vol. I, p. 386. Cf. also *Review of the Events of 1920-1926*, p. 184.

[4] *Report on the Education Department*, 1924-25, p. 7.

Gold Coast Expenditures upon Native Welfare, 1926-27

	Expenditures	Percentage of Total Expenditures [1]	Per Hundred
Education	£179,291 [2]	% 5.78	7.800
Agriculture, Veterinary, and Forestry			
Agriculture	67,982	2.19	2.958
Veterinary	10,497	.34	.457
Forestry	26,923	.87	1.171
Total	105,402	3.40	4.586
Medical and Sanitary Work			
Medical Department	160,436	5.17	6.980
Sanitation	95,756	3.09	4.166
Medical Research	12,742	.41	.555
Total	268,934	8.67	11.701
Total	£553,627	17.85	24.087

[1] "Total Expenditures" are 3,099,862 pounds. They do not include Ordinary and Capital Expenditures on Railways, totaling £676,674, nor Special Expenditures from accumulated balances, totaling £998,528.
[2] Includes Achimota College (£29,948).

educational system leave much to be desired. Students do not remain long enough in school to receive a thorough training, and in the village schools, at least, they are under incompetent teachers. The program of instruction in most mission schools in the past has been almost exclusively literary; and literary subjects have been taught without relation to local life. It is estimated that the schools turn out annually between four thousand and five thousand boys fitted only to become clerks, but that the demand for clerks by employers is probably not more than five hundred a year. As the Governor recently said, "Failing employment in an office, and strongly imbued with an unhealthy dislike to manual labour, they fall natural victims to discontent and consequently to unhappiness.[5]

The quality of the education which the African now receives is revealed by the fact that only eighteen per cent of the candidates passed the civil service examinations for native clerks in 1922, forty per cent in 1923, and eighteen per cent in 1924.

This despite the fact that candidates sometimes manage to steal the questions!

[5] *Legislative Council Debates*, 1924-25, p. 66.

The progress of education in the Gold Coast is shown in the following table:

Education in the Gold Coast[6]

Date	Government and Assisted Schools	Non-Assisted Schools (Approximate)	Total Schools	Number of Pupils at School			Cost of Education
				Boys	Girls	Total	
1901	135	120	255	9,859	2,159	12,018	£6,543
1913	154	230	384	15,453	3,357	18,810	25,374
1919	213	250	463	22,718	4,600	27,318	54,442
1926	234	300	534	26,039	6,800	32,839	179,000[1]
1927-28	....	....	....	.....	.....	.....	213,000[1]

[1] Estimated.

The number of Education Officers has increased from seventeen in 1919 to fifty-seven in 1927.

3. *Achimota*

In order to develop an educational system more thorough in its results and better fitted to the lives of the people, the government has launched a unique project, now known as The Prince of Wales College, the direction of which is in the hands of the Reverend A. G. Fraser, whose success as an educator in Kandy College, Ceylon, has been striking.[7] The purpose of Achimota is to elevate the masses through their own leaders, particularly through African teachers. To train these leaders, a European staff is at first necessary. Consequently, fifty graduates from English universities are being engaged as instructors. In addition to teaching, they will devote themselves to research in the customs, language, history, music, and institutions of the Gold Coast people—work which no political officer has time thoroughly to do.

To prevent the denationalization of the African, instruction in the early standards of Achimota will be entirely in the vernacular.[8] Only in the latter years will English be used. Even then one or two courses will continue to be given in the vernacular.

Instead of teaching the detailed history of England, as is done in many schools in British Africa today, the Gold Coast children will be taught folk tales and legends of their own people. This will be followed by a

[6] Based on figures given in *Review of the Events of 1920-1926,* pp. 198, 199.

[7] At this Church Missionary Society institution Rev. Fraser succeeded in giving natives an education which, instead of taking them permanently out of their groups, sent them back to their homes to improve the communities. Cf. V. L. O. Rierman, *History of Trinity College,* Kandy, Madras, 1922.

[8] Cf. A. G. Fraser, "Denationalization," *The Gold Coast Review,* June-December, 1925.

study of native laws and institutions, showing how they hold native society together. The advanced natives will be encouraged to write tribal histories. Finally, they will learn the history of the colony since the arrival of the Europeans.

Science will be taught in relation to local life. Children will begin by observing the life of ants, mosquitos, plants, and flowers. Arithmetic will be taught through the village market, in which each child will become a stall-holder, and where he will sell goods of a known value. He must keep his own accounts; and he will soon learn that the best way to do this is by arithmetic.[9]

Achimota intends to have a model school of every type which the colony needs, beginning with the kindergarten, which has already been started. Students will be given the elements of a literary and a scientific education, but adapted to their own lives. In addition, they will be given a special training, so that instead of flocking into the towns, they may go back to their villages, as chiefs, teachers, housewives, farmers, medical assistants, and artisans.[10] It is planned eventually to give work as high as the first two years in an English university, but no degrees will be given for the next ten years.

Achimota is now divided into (a) the Prince of Wales School which consists of a Kindergarten for boys and girls, a Lower Primary School for boys and girls and an Upper Primary School for girls only and (b) the Prince of Wales College, consisting of a Boys' Upper Primary School, a Secondary School, and a University College. Of the seven hundred and seventy students, two hundred and thirty will be in the School and five hundred and forty in the College. The Kindergarten section opened in January, 1927, and the full opening of both School and College will take place in January, 1928.

In financing this project, the Gold Coast Government has displayed unexampled generosity. It plans to invest over 607,500 pounds in capital equipment, and it now expends 41,000 pounds a year on operating expenses, a sum which will probably be increased to eighty-two thousand pounds.[11]

When this plan was originally proposed, the Africans conceived it as a project to build a second Oxford. As such, it won their enthusiastic support. But while the ultimate aim is still to make a university, Mr. Fraser's present plans contain no such ambitions for the immediate future. Con-

[9] "Achimota," *Round Table,* December, 1925.

[10] The higher courses in medical work will be given in connection with the Gold Coast hospital. Agricultural students will take their last years at the Kumasi agricultural school.

[11] "Despatch from the Governor on the System of Education at Achimota." *Sessional Paper IX,* 1925-1926, p. 9. Also a *Review of the Events of 1920-1926,* p. 143.

sequently, the sentiment of some Africans was for a time lukewarm. They have the suspicion that in devising special courses for Africans, which Europeans do not take, European school masters and governments are attempting to keep them in a subordinate intellectual, and therefore social, position indefinitely.[12] In reply, the Achimota authorities would probably say that they do not intend to attempt to keep any knowledge from the African. They merely insist that the educated African should stand on the right foundations. The African child must learn many things from the school that the European child learns from his home, such as rules of hygiene and rules of conduct. The task of the elementary school in Africa is, therefore, much more important and much more difficult than that of the elementary school in European countries, and its program of instruction must be correspondingly varied. Many years ago, the schools of the United States revolted against an exclusively literary education which unfitted youths for the life which they were bound to lead. The governments of Africa are now attempting to prevent the mistakes from which European education now suffers. Having acquired the proper digestive system, the African will be invited to pick fruit off the tree of knowledge to his heart's content.

4. *Technical Training*

The Gold Coast has probably gone farther than any other colony in Africa in the training of natives for technical positions in the government. The Public Works Department has mapped out extensive courses of instruction for the purpose of training African engineers, road foremen, and artisans. Candidates for these different positions are obliged to study the principles of applied science. A budding road foreman must know the principles of road construction, including a knowledge of how to lay concrete culvert pipes. A building inspector who follows a course at the government survey school must know the theory of building construction. The present program calls for the appointment each year by the government of five leading carpenters and masons in each province.

All of the postmasters in the Gold Coast are Africans, including the postmaster of Accra, one of the three most important commercial centers in West Africa. The Gold Coast is probably the only place in Africa having African women as telephone operators. Thirty-eight superintendents of police, twelve senior locomotive drivers, and two hundred and ninety-six station masters and assistants in this territory are also Africans. Through holding such positions, the Africans are gaining practical experience in the

[12] Dr. W. E. B. Du Bois has severely attacked the reports of the Phelps-Stokes Commission on this ground.

application of western scientific knowledge which is essential if they are eventually to govern themselves.

5. *Gold Coast "Extravagance"*

One of the most important problems with which an educational system will have to cope is that of directing the wise expenditure of money. The sudden acquisition of riches works havoc with the standards of any people, and the African is no exception to the rule. Unless they learn to use this money productively, it will probably do more harm than good. While the natives have made little use of the savings bank facilities of the Bank of British West Africa, about four thousand of them have savings accounts in the Colonial Bank (now Barclay's); and 6,317 had accounts in the forty-four Post Office Savings Banks scattered throughout the country, at the close of 1924. The total amount standing to the credit of these latter accounts in 1924 was nearly fifty-five thousand pounds, and the interest which these natives received amounted to about 1,437 pounds.[13] This showing is probably more creditable than that of any other place in Africa. Nevertheless, it is doubtful whether Africans will for many years understand the principle of interest sufficiently well to lead them to utilize savings institutions to any great extent. They are much more likely to be attracted by a cooperative society whose funds are definitely devoted to a productive purpose which they can visualize. So far, the government has done little to develop the cooperative movement among the natives.[14]

While the Gold Coast native thus saves a certain proportion of his income, it appears that most of it goes into the purchase of imports. The commercial imports of the Gold Coast, amounting to about 6,500,000 pounds a year, are higher, proportionately, than those in any other colony in tropical Africa except Zanzibar.[15] In 1924, 2,973,000 pounds' worth of imports consisted of scientific instruments, probably for the mines. Of the imports for ordinary consumption of that year, the following items are of interest:

Tobacco[16]	1,850,000 pounds
Spirits, wines, and beers	384,000 "
Chinaware or porcelain	1,200,000 "
Cotton piece goods, etc.	1,280,000 "
	4,714,000 pounds

[13] *Report on the Posts and Telegraphs Department*, 1924-25, p. 18.

[14] Cf. Vol. I, p. 815.

[15] Cf. p. 815. In addition, 1,107,000 pounds of bullion and coin, and 873,000 pounds of government stores were imported in 1924.

[16] A large proportion of the unmanufactured tobacco is imported from the United States. The figures given above are based on the *Gold Coast Trade Report*, 1924, published May 30, 1925, in *Gazette, Supplement;* Table 5.

Thus expenditure on drink and tobacco constitute nearly half the total, which would indicate an unhealthy state of affairs. There is, however, no way of determining what proportion of the expenditure on tobacco and spirits is borne by the European, except that the expenditures on gin of 185,275 pounds are for the most part native. It may be assumed that chinaware and cotton goods are purchased only by natives.

It is difficult to determine what the income of the Gold Coast is, and what percentage of his income the native expends. In 1925, 218,000 tons of cocoa were exported from the Gold Coast. Estimating that the native was paid twenty-five pounds a ton, the native income from this source would be about five million, five hundred thousand pounds. Imports, on the other hand, for consumption purposes are probably five million pounds. It would appear, therefore, that the greater part of the income is spent on imports two-fifths of which are unproductive, if not harmful, in character. Any calculations, however, upon the relation of income to expenditure must necessarily be inexact.

This money question is the subject of frequent discussions in the Gold Coast papers. One native recently wrote that "wherever you go, you hear of poverty, no money, hardness of the times. . . ." In his opinion, this poverty is due to "extravagant living" as reflected in expensive weddings and funerals. Bridegrooms go to money lenders in order to provide their brides with luxurious trousseaux and the guests with "sumptuous drinks." At funerals, the corpse is adorned "with all sorts of ornaments," and "costly coffins and special decorations of the bedstead" are provided. "The giving of funeral donations has become compulsory, and cases have happened when some people have gone so far as to borrow money to give funeral donations. . . . Among the Accras, the longer the body is kept lying in state, the more donations are expected; the result is that very often decomposition sets in." The custom has arisen both on the Gold Coast and in Sierra Leone to hold memorial services for the dead, after which the attendants "wend their way in a long line to the house of relatives of the deceased where they are served with drinks." One chief is reported to have expended seven hundred pounds largely for drinks at the funeral of his cousin.

Litigation has also become "rampant." "After the cocoa season, crowds of litigants flock to the coast towns for lawsuits." This writer estimates that twenty-five thousand pounds a year are expended in supporting "national causes." Presumably he had in mind the delegations sent to London upon such matters as the Forest Bill. Finally, gin drinking is more widespread on the Gold Coast than in any of the other West African colonies.[17]

[17] Cf. Vol. II, p. 881.

"A country whose inhabitants are addicted to gin drinking can never preserve their thinking faculties in good order. . . . Both the merchants and government have connived at the demoralizing effects which the gin trade produces. . . ." [18]

The Gold Coast Independent, however, did not believe that the situation was as thus pictured. It declared that the number of "extravagant" weddings could be counted on one hand. Funerals and christenings were conducted on a communal basis, which kept the poor people from being pauperized.[19]

It is probable that excesses will be overcome only by the right kind of education. However great Gold Coast extravagance may be, there are no paupers and no tenements in the country. There is money enough to go around, and the communal system makes sure that it is widely distributed.

[18] "National Poverty the Result of Extravagance," *Gold Coast Independent,* June 15, 1926. In a significant illusion, the writer says that Japan could never have achieved her present greatness, if her people had wasted their resources.

[19] "Do We Spend Too Much? *Gold Coast Independent,* May 22, 1926. The subject was the object of further contributed articles, one of which says that "Western civilization is another thing that has introduced all over the country fornication and prostitution." The writer asks that the Omanhene and councillors arrange the exact amount of wedding expenses. Not more than "ten gentlemen, five flock ladies, five cloth ladies, and the real family" should be invited. "Drinkables must be about ten bottles." *Gold Coast Leader,* December 4, 1926.

APPENDICES—GOLD COAST

XVII. Average Revenue and Expenditure 1899-1927

XVIII. Average Annual Trade 1899-1926

APPENDIX XVII

GOLD COAST

Average Revenue and Expenditure, 1899-1827

Period	Average Annual Revenue	*Average Annual Expenditure* Recurrent	Extraordinary	Total Recurrent and Extraordinary	Average Surplus Revenue
1899-1905	£578,570	£426,235	£30,764	£456,999	£121,571
1906-1912	893,805	670,755	79,656	750,411	143,394
1913-1919	1,635,650	1,222,765	166,913	1,389,678	245,972
1920-1927	3,829,705	2,954,354	418,267	3,372,621	457,084

APPENDIX XVIII

GOLD COAST

Average Annual Trade—1899 to 1926

Period	*Tonnage* Imports	Exports	Total	*Value* Imports	Exports	Total
1899-1905	(Tonnage figures 1899-1912			1,505,428	787,143	2,292,571
1906-1912	not available.)			2,346,286	1,683,857	4,030,143
1913-1919	170,429	183,428	353,857	4,127,857	4,353,286	8,481,143
1920-1926	247,857	423,429	671,286	8,545,286	8,694,857	17,240,143

SECTION IX

SIERRA LEONE

CHAPTER 53

THE PROTECTORATE

1. *Origins*

ALTHOUGH Sierra Leone has the smallest area of any British territory in western Africa, except Gambia, it has one of the most fascinating histories and presents some of the most interesting problems of them all. The Government of Sierra Leone owes its origin to much the same impulse as that which led to the establishment of the Republic of Liberia—the humanitarian desire to provide a home for freed slaves. Between the fourteenth and the eighteenth centuries, European traders, many of whom were slavers and pirates, touched upon the shores of what is now Sierra Leone; and several British trading companies, such as the "Company of Adventurers of London" and the "Company of Adventurers into Africa," established forts along the coast. Parts of the territory were, therefore, occupied by Europeans before Lord Mansfield's Judgment in 1772 which declared that a slave became free upon setting foot in England. As a result of this judgment, some fifteen thousand slaves in England became free and many of them deserted their masters. In an effort to provide for the large number of these negroes who soon became destitute, some philanthropic Englishmen formed a society which eventually conceived the idea of sending the "Black Poor," as the negroes were called, to a free settlement which the society would establish in Sierra Leone. In 1787, the first expedition with this purpose, composed of four hundred and eleven former slaves and sixty European prostitutes, arrived in Sierra Leone. In 1791, the Crown granted a charter to the Sierra Leone Company (among the directors of which were William Wilberforce, Thomas Clarkson, Granville Sharp, and Mr. Thornton) which imported further negro settlers, some of them from as far away as Nova Scotia. These early settlers experienced difficulties similar to those encountered by the founders of Liberia with tribes in the interior. But as in the case of Liberia, the Government of Sierra Leone, which confined itself to the seaport town having the symbolic name of Freetown, undertook to deal with the aboriginal tribes upon a treaty basis and not upon the basis of conquest. Thus the founders of Sierra Leone obtained a grant of about twenty square miles

of land from King Tom, in return for the payment of thirty pounds. In 1808, the British Government established a Vice-Admiralty Court in Sierra Leone for the trial and liberation of slaves taken from slave ships by British cruisers off the West Coast; as a result of which the ex-slave population of the vicinity rapidly increased. In 1821, the British Crown took over the administration of the colony from the Company. At about the same time, American missionaries with eighty-nine freed slaves occupied land near Sherbro which they purchased from the local king. But the climate proved so unhealthy that eventually they decided to move farther south to Cape Mesurado—a migration which was one of the earliest beginnings of the Liberian Republic. For the next seventy-five years, the British limited their interests to the small strip of territory in the vicinity of Freetown, known as the Colony of Sierra Leone, the administration of which, together with that of the Gold Coast Forts and the Colony of Lagos, was [1] tossed from pillar to post, until finally, in 1888, Sierra Leone was constituted a separate colony.[2]

Back of the colony stretched a hinterland occupied by a number of native tribes and states. Following the conclusion of about one hundred and fifty treaties with the chiefs [3] the government finally established a protectorate over the hinterland in 1896. Since that date, the Administration of Sierra Leone has presented two main types of problems: (1) those arising out of the administration of Africans living in their native environment in the Protectorate; (2) those rising out of the administration of the Colony, inhabited for the most part by the descendants of freed slaves who have always lived under European conditions and who do not, as a rule, know any native language. We shall discuss the problem of administration in the protectorate first.

2. *The Tribes—the Human Leopard Society*

Lying back of the tiny area on the coast which constitutes the Colony, the Protectorate of Sierra Leone covers twenty-six thousand square miles. It is inhabited by a population of 1,451,000 people, the majority of whom belong to pagan tribes. The Mendi tribe, with its branches, numbers about six hundred thousand. Other natives living in the north belong to Mohammedan groups such as the Kissies, numbering about forty-seven thousand. Many of the Temnes, who number about three hundred and

[1] Cf. Chap. 46.

[2] This history is summarized in T. N. Goddard, *The Handbook of Sierra Leone,* London, 1925, Part II. It is given in greater detail by F. W. Butt-Thompson, in *Sierra Leone, in History and Tradition,* London, 1926.

[3] A list is given in Appendix I of Goddard, *cited.*

ten thousand, have also become Mohammedans.[4] These peoples are divided up into two hundred and sixteen tribes, each governed by a Paramount Chief. Of these chiefs, sixty-seven will be found among the Mendes and forty-one among the Temnes. There is, however, no Paramount Chief for all the Mendes nor for any other race. But among some peoples, tribes are bound together by an organization called the Porro Society to which all male members of the race, of which the tribes are a part, must belong. A form of free masonry, this society always takes charge of the circumcision ceremonies through which most African children go at the age of puberty. Many of them hold other ceremonies. A counterpart of this society for the women is the Bundu Society. Mr. H. C. Luke, the Colonial Secretary of Sierra Leone, has written: "In contrast to the women in the East, the women in Sierra Leone are a very important factor in the life of the community, an indication that polygamy does not necessarily keep them in subjection. Not only do they exercise influence through the Bundu Society: among the Mendes and Sherbros it is no uncommon thing for a woman to be paramount chief. . . . It is true that among the Temne, Susu, and other tribes under Mohammedan influence, women, although not forming an exception to the statement made above as to their importance in every section of the population, do not play so prominent a part in the affairs of the chiefdom as do the women among the Mendes and Sherbros." [5]

Among the Sherbros will be found the notorious Human Leopard Society, which is a "combination of cannibalism and a debased form of magic." Mr. Luke says:

"The members of the Society would agree upon a victim and select one of themselves to commit the murder, which was done by means of a three-pronged fork made to resemble a leopard's claw. After the victim had been killed, the flesh, or a portion of it, was stripped from the body and put to three different uses: the meat would be distributed among the members of the Society and eaten; the fat made into a 'medicine' called *nessi* and used to anoint the forehead and hands of the fraternity in times of crisis, when they felt in need of a powerful mental stimulant; the heart and other organs cut up, mixed with a variety of substances having strong magical properties, and made into another 'medicine' known as *borfima* on which the members of the Society were sworn to secrecy. An oath sworn on the *borfima* is as binding as was one sworn on the bones of saints in the middle ages. No one dares to break it for fear of the awful consequences which would inevitably follow,

[4] *Report and Summary of the Census of 1921,* p. 32.

[5] H. C. Luke, in the Essay on the Origin, Character, and Peoples of the Colony and Protectorate, preceding *A Bibliography of Sierra Leone,* London, 1925, pp. 30 ff

and the secrecy which surrounds the operations of the Society has thus never been pierced sufficiently to make it possible to analyze all its motives with certainty. From the fact that often only a small piece of flesh was removed from the body, and was distributed among a large number of people, it is probable that it was eaten more on account of the virtue which it was supposed to confer on those who ate it than for a liking for that form of food, although the opinion has been heard to be expressed that 'man beef sweet past all other beef.' It is also probable that the leopard is the emblem of the Society, not because its members really believe, or pretend to believe, that at times they can assume the shape of a leopard, but because, in a country infested by leopards, the ascription of a murder to these beasts is a convenient mode of diverting suspicion." . . .[6]

The same practices have been carried on by the Human Alligator Society. In an effort to stamp out this ritualistic murder, the government has enacted an Unlawful Societies (Human Leopard and Alligator) Ordinance, which provides that any person having in his possession a leopard or alligator skin, or knife, native medicine or other articles used by members of these societies, and any person who is a member of such a society is liable to imprisonment for a term not exceeding fourteen years. Chiefs who directly or indirectly encourage the celebration of the customs of such societies may be deported from the country. Persons convicted of murder are liable to the death penalty; and if a person is tried for murder in connection with a society of which he is a member, but is acquitted, he may be deported from the Colony or Protectorate.[7]

Despite these rigorous measures, some natives, both educated and illiterate, cling with great tenacity to these organizations which have not been entirely broken up. As the Governor wrote in 1913, "The blind belief of the natives in the efficacy of the 'medicines' concocted by the Society (especially that known as 'Borfima'); the power and authority enjoyed by the possessors of these medicines; the fact that periodical human sacrifices are considered to be necessary in order to renew the efficacy of the medicines; and a tendency on the part of some natives to cannibalism pure and simple—all of these causes will contribute to the survival of this baneful organization." [8]

3. *The Hut Tax War*

The ordinance establishing the Protectorate over the hinterland in 1896 required every chief to collect and pay over to the government a house

[6] *Ibid.*, pp. 34 ff.
[7] *Laws of Sierra Leone*, hereafter cited as *Laws*, Chap. 222, p. 1516.
[8] *Correspondence regarding Unlawful Societies*, Cd. 696 (1913), p. 5. In 1913, 333 arrests under these Ordinances were made, and nine natives were convicted of murder.

tax of ten shillings a year for each house with four or more rooms and five shillings for every house with three or less rooms. Upon collecting these sums, the chief would receive a rebate of five per cent.

These taxes were regarded by the natives as excessive, and following the refusal of Chief Bai Bureah of the Karene district to pay the tax, a rebellion took place in 1898 which lasted for three or four months. The natives vented their feeling toward the Freetown Creole population by massacring the Creole traders in the Protectorate, together with some European missionaries. Altogether, it is believed that a thousand British subjects lost their lives.[9]

Following military operations, thirty-three prisoners were convicted and hanged on capital charges. Sir David Chalmers, a commissioner sent out to investigate the causes of the war, reported:

"The Hut tax, together with the measures used for its enforcement, were the moving causes of the insurrection. The tax was obnoxious to the customs and feelings of the people. . . . There was a widespread belief that it was a means of taking away their rights in their country and in their property. That the tax was considered an oppressive and unjust impost is proved by the unanimous and earnest petitions and representations against its enforcement in the earlier stages, by the general unwillingness to pay reported by District Commissioners in the beginning of 1898, and manifested everywhere by the agreements and oaths of the Chiefs binding themselves not to pay, and their resistance to payment, and by the opinions of Chiefs and others who know their countrymen and their modes of thinking.

". . . Repugnance to the tax was much aggravated by the sudden, uncompromising, and harsh methods by which it was endeavoured to be brought into operation, not merely by the acts of native policemen, but in the whole scheme adopted by the Colonial authorities." [10]

These conclusions were, however, challenged by the Governor of Sierra Leone, Sir Frederick Cardew, who took the position that the imposition of the House Tax was an excuse for, but not the cause of the rebellion. He declared there had been no difficulty in collecting the tax. His contention was upheld by the Secretary of State for the Colonies, Mr. Joseph Chamberlain.

In considering whether it was desirable that the power of the chiefs should be broken or that the administration should be carried on mainly through the chiefs, Sir David Chalmers came to the conclusion that the

[9] E. D. Morel referred to "such deplorable mistakes as led to the Hut Tax war in Sierra Leone," *Affairs of West Africa,* London, 1902, p. 14.

[10] *Report on the subject of the Insurrection in the Sierra Leone Protectorate,* 1898, C. 9388, (1890), p. 73.

only practical policy was "a regulated administration through the Chiefs." He further stated: "The native organization is one to which the people are accustomed, and are prepared to pay respect, which is suited to them, and capable, with some guidance and control, of keeping the peace and doing substantial justice." [11] He recommended that the government should not attempt to reimpose the hut tax, but his suggestion was not followed. The tax to-day, which is called a house tax, is five shillings.

4. *The Protectorate Ordinances*

Apparently as a result of the Chalmers report, the government enacted a series of ordinances which form the basis of administration in the Protectorate at the present time. These ordinances are:

(1) The Protectorate Ordinance, 1901.
(2) The Protectorate Courts Jurisdiction Ordinance, 1903.
(3) The Protectorate Native Law Ordinance, 1905.[12]

All of these ordinances are founded upon the principle of governing the native population through the Native Authority. Under the first ordinance, the British Government has divided the Protectorate into the Northern, Central, and Southern Provinces, each in charge of a provincial commissioner. These provinces, in turn, are divided into thirteen districts, each in charge of a district commissioner. For a time, the Sierra Leone Administration attempted the experiment of African political officers, an experiment which failed for the same reasons which led to its failure in Nigeria.[13] At the present time, however, an African staff officer, called an "office assistant," is attached to the office of each provincial commissioner and undertakes some duties of supervision connected with the chiefs. The Estimates provide for forty-four administrators—one for every thirty-nine thousand people.[14]

While the administration recognizes the authority of native chiefs who hold their position by virtue of native custom, the Governor may, subject to the approval of the Secretary of State, depose any chief who is unfit for the position and appoint another to his place. Since the consent of the Secretary of State must be obtained—a policy which is not followed in other British Colonies—it does not appear that this power is frequently exercised. At present the British Government pays the native chiefs a five per cent commission on the house tax totalling 3,240 pounds, plus

[11] C. 9388, p. 79.
[12] (1) will be found in *Laws,* Chap. 167, p. 1132; (2) in *ibid.,* Chap. 169, p. 1155; (3) in *ibid.,* Chap. 170, p. 1174.
[13] Cf. Vol. I, p. 719.
[14] These figures include the Colony.

stipends in pursuance of treaties amounting to 1,348 pounds. In addition it makes certain presents to the chiefs.

Chiefs are also entitled to receive labor for their farms upon the same basis as they received it before the establishment of the Protectorate. But the Protectorate Native Law Ordinance of 1905 (Sec. 15) provides that no chief shall cultivate an area larger than can be cultivated without preventing the people from having sufficient time to cultivate their own lands. It does not appear, however, that the administration has attempted to fix a limit to these exactions. In some districts, both chiefs and people have asked that tribute be registered and commuted upon a fixed basis—an experiment which has already been successfully carried out in parts of the Southern Provinces.[15] In many ways, it would be desirable for Sierra Leone to consider imitating Tanganyika in abolishing tribute (as well as the five per cent tax rebate which rests upon a bad principle) in favor of fixed salaries paid out of native treasuries.[16]

Probably the most important duty of the chiefs is the exercise of their judicial power. According to the Protectorate Courts Jurisdiction Ordinance of 1903, native chiefs may decide all civil cases between natives in accordance with native law, except for land cases arising between two or more Paramount Chiefs or of a debt claimed by a trader. Likewise, chiefs have had criminal jurisdiction over natives, except in cases such as murder, rape, slave trading, and offenses relating to unlawful societies. Until 1925, the only restriction upon the sentences of these courts was that they should not inflict punishments involving death or mutilation. In 1925, an ordinance was passed limiting their jurisdiction to offenses involving imprisonment for not more than six months[17]—a somewhat drastic limitation of their former powers.

It does not appear that the European officials exercise any supervision over these tribunals in the way of inspecting registers or returns; nor is the scale of fines or fees of these courts fixed by law. The only check on these tribunals is through appeals which natives tried by native courts may bring to the district commissioner. As a result of complaints that the fees and fines imposed by the Chiefs' Courts were excessive,[18] the Legislative Council enacted an ordinance in 1925 which authorized the administration to make rules to standardize fees paid in various stages of the cases, which will prevent the wealthy man from dragging out a case by summon-

[15] *Annual Report of the Southern Province,* 1924, p. 14.
[16] Cf. Vol. I, p. 458.
[17] *Ordinances,* 1925, p. 20.
[18] *Address by the Governor, Legislative Council,* 1923-1924, p. 55. During 1920-1922 the number of complaints to political officers of excessive fines in criminal cases was twenty-one in the Northern Province, five in the Southern Province, and fifty-eight in the Central Province.

ing additional witnesses, the fees for which the poorer native cannot afford.[19] It also is empowered to regulate the disposal of fines and fees. In the same year, a law was enacted to the effect that all sentences exceeding fourteen days imposed by Chiefs' Courts should be served in government district prisons, and not in the prisons of native chiefs. It also provided that the district commissioner should be notified of the offense committed by such prisoner. Whenever the Paramount Chief sentences a native to more than fourteen days' imprisonment, he must transmit a statement to the district commissioner, which acts as an automatic appeal.[20]

To make administrative control of these tribunals complete, the enactment of an ordinance providing for administrative inspection of monthly native court returns might be desirable.

In the years between 1920-1922, the administrative officers of the Protectorate heard on appeal from the native courts 3,386 cases, of which they modified three hundred and fifty-three, or 10.35 per cent.[21]

Recognizing the desirability of bringing different tribes of the same race together, the Protectorate Native Law Ordinance of 1905 provided that the Paramount Chiefs of the several races should form Assemblies of the Paramount Chiefs of each race, over which an official appointed by the Governor should preside. These assemblies were to advise the government upon any legislation or other action affecting native welfare. It does not appear, however, that such assemblies have met. Certainly the object of gradually building up a Mende or a Temne nation out of the various tribes into which these people are now divided is desirable.

Slavery has existed among the tribes of Sierra Leone as elsewhere. The Protectorate Ordinance of 1901 prohibited slave trading, and provided that every slave brought into the Protectorate for trading purposes was free. It also provided that a slave might purchase his freedom at a sum not

[19] *Ordinances,* 1925, p. 27. The Court of the District Commissioner may secure the attendance of native witnesses and defendants before a native court.

[20] *Ibid.,* 1925, p. 19.

[21] *Address by the Governor, cited,* 1923-1924, p. 56.

The Court of the District Commissioner hears certain European and mixed cases involving not more than fifty pounds and it has summary jurisdiction over criminal offenses. It may impose imprisonment for not more than six months and a fine not exceeding ten pounds. It may commit an accused party in the more serious criminal matters for trial by the Circuit Court. The Circuit Court consists of a Judge of the Supreme Court of the Colony and has civil jurisdiction in European and mixed cases the subject matter of which exceeds fifty pounds in value, etc. It has criminal jurisdiction in all cases beyond the jurisdiction of the courts of the native chiefs or of the district commissioners. It may inflict capital punishment or whipping not exceeding twenty-four lashes. But no death sentence may be carried into effect except upon the warrant of the Governor. It also hears certain appeals from the Court of the District Commissioner when the subject matter exceeds ten pounds in value, and in criminal cases. Cf. the Protectorate Courts Jurisdiction Ordinance, 1903, Chap. 169. *Ibid.,* and J. de Hart, *The Judicial System of the Sierra Leone Protectorate,* 1925, Freetown.

exceeding four pounds in the case of an adult and two pounds in the case of a child. The 1926 Council enacted another law providing that all persons born or brought into the Protectorate are declared to be free; all persons treated as slaves shall become free upon the death of their master. No claim for or in respect of any slave shall be entertained by any of the courts.

In the summer of 1927 the Supreme Court of Sierra Leone handed down a decision stating that under existing legislation a slave owner could not be punished for forcibly recovering a slave who had escaped from his possession. This decision, calling attention to the existence of domestic slavery in Africa, seemed to shock sentiment in England, while it led to the introduction of new legislation in Sierra Leone.

5. *The Bo School for Chiefs*

Sierra Leone has done more than any other British territory in Africa except Tanganyika in attempting to elevate its chieftainship to the intellectual level of the educated but detribalized natives in the towns. These efforts have led to the establishment of a boarding school for the sons and nominees of the chiefs of the Protectorates, established at Bo in 1906. In 1924, there were one hundred and fifty-four pupils in the school, seventy-seven of whom were Mendes, and twenty-four of whom were Temnes. Altogether, seventy-seven chiefdoms were represented. While the boys receive a literary education, they also are given instruction in practical subjects which include hygiene, elementary science, practical and theoretical agriculture, and surveying. Special attention is also given to sports and games.[22]

At present, five graduates of this school are Paramount Chiefs, fifty-eight are assisting chiefs, and ninety-two are in governmental service.[23] Altogether, four hundred and two boys have been admitted to the school, which has an eight-year course. While such a period, spent in a European school would have a thoroughly detribalizing effect, this result, it appears, is avoided at Bo by the native atmosphere in which the school is conducted, and by frequent holidays in the boys' original villages.

6. *Agriculture—Palm Concessions*

Native life in the Sierra Leone Protectorate, as in all other parts of Africa, has an agricultural basis. The principal food crop consists of "hill" or "upland" rice. Within recent years, the government has been encouraging the cultivation of "wet" rice since the production of the former

[22] Cf. *Annual Report of the Education Department*, 1924, pp. 18 ff.
[23] *Address by the Governor, Legislative Council*, 1926-1927.

variety entailed the destruction of large areas of forests. The Protectorate also furnishes the bulk of the exports of Sierra Leone, which consist of kola nuts, ginger, and palm products. The latter constitute about five-eighths of the total exports.

Next to Nigeria, Sierra Leone exports more palm kernels than any other British territory in Africa. The increase in the export of palm products may be seen from the following table:

Sierra Leone Exports of Palm Kernels and Palm Oil

Year	Palm Kernels		Palm Oil		Palm Kernels and Oil
	Quantity (Tons)	Value (£)	Quantity (Tons)	Value (£)	Total Value (£)
1901	20,475	161,749	660	9,816	171,565
1923	59,545	968,797	3,346	102,645	1,071,442
1924	61,117	1,096,386	3,110	93,141	1,189,527
1925	63,231	1,152,467	2,988	94,132	1,246,599

The methods of the Sierra Leone native in procuring these palm products, like those of the Nigeria native, have resulted in waste and inferior quality. Before the World War, the Sierra Leone Government, in company with other West African governments, became alarmed at the condition produced by such methods, especially in view of the competition which the palm plantations being installed in other parts of Africa might in the future offer to native industry.[24] It was estimated that the present export of palm kernels could be produced on plantations covering one hundred and eighty square miles, or less than one per cent of the total area of the Protectorate.[25] Some commercial interests in England declared that if the British colonies were to hold their own, European methods, *i.e.*, plantations, must take the place of native methods of cultivation.

But the land system in the Protectorate of Sierra Leone, which resembles the system in the Gold Coast and Southern Nigeria, did not make it possible for the government to grant leases of Crown land. Land in the Protectorate is vested in the Tribal Authority. The chief merely acts as

[24] On July 31, 1913, Mr. Harcourt, the Secretary of State for the Colonies, said: "The soap boilers of the world—irrespective of their politics—are tumbling over one another to acquire the raw material of their industry. They find that they can do this on a far larger and more advantageous scale in Liberia, the Cameroons, and the Congo than they can in British Possessions. But I am the officially-constituted protector of the natives in our own Colonies, and it is my duty to see that they are not—so far as I can prevent it—unduly damaged by this foreign competition. . . ." *House of Commons Debates*, 1913, Vol. LVI, col. 786.

[25] *Address by the Governor, Legislative Council*, 1925-1926, p. 37.

guardian of the property held by individuals within the tribe. He cannot ordinarily deprive them of their land, nor does the chief hold land ex officio.[26] While under native law the chiefs may allow outsiders to come in and "settle" on the land, they cannot part with it permanently. To give this principle the support of British law, the administration enacted a Concessions Ordinance, in 1902.[27] This ordinance provided that no chief should alienate any land for purposes of cultivation except with the assent of the Governor. If an outsider wished a grant not exceeding one thousand acres, the Governor could give his consent if the chief wished to make a lease for this amount, provided the Governor was satisfied it was for the benefit of the chiefdom.[28]

In 1907, Lever Brothers attempted to secure large concessions in Sierra Leone.[29] When they found that the Sierra Leone Government would not tolerate the idea of palm concessions, Lever Brothers requested the British Government to grant it monopolistic rights over a certain area in which it could erect palm-crushing machinery and lay down mono-rails. What they had in mind was an oil-extraction factory to which the natives could bring their fruit instead of attempting to extract the kernels and the oil themselves. After negotiations which covered a period of four years, the Colonial Officio finally agreed to approve concessions embodying these features. In 1913, the Sierra Leone (and Gold Coast) Legislatures passed ordinances authorizing concessions [30] over an area of ten square miles for a term of twenty-one years which could be renewed. Within such an area, the concessionaire could erect oil extracting machinery to the exclusion of all other Europeans. The same concessionaire could not hold two grants within fifty miles of each other. The native was not, however, obliged to sell his fruit to the concessionaire. Unlike ordinary concessions, these concessions were granted by the Governor, and not by the chief; but they were subject to the approval of the Tribal Authority.[31]

Thus the purpose of these ordinances was to induce Europeans to erect mills to extract oil from fruit collected by natives in the same way as European ginners gin native-grown cotton. In order to induce Europeans to erect such mills, each concessionaire was given a monopoly of the area conceded in so far as the erection of other mills was concerned. While the

[26] J. C. Maxwell, *Notes on Land Tenure in Sierra Leone Protectorate,* Freetown, 1922.

[27] *Ordinances,* Vol. I, Chap. 36, p. 174.

[28] This Ordinance also provided for the establishment of a Concessions Court similar to that in the Gold Coast. But apparently the Governor determines whether or not the concession shall be granted.

[29] Cf. *Correspondence respecting the grant of exclusive Rights for the Extraction of Oil from Palm-fruits,* Cd. 6561 (1912-13), p. 1.

[30] Palm Oil Ordinance, 1913, Chap. 141, *Laws,* p. 945.

[31] Palm Oil Rules, *ibid.,* Vol. III, p. 127.

government did not attempt to fix a minimum price to be paid to natives for fruit, the interests of the natives in this respect were supposedly safeguarded by the fact that they could sell their produce to European traders who could enter the area.[32] Nevertheless, these concessions met the opposition of the unofficial members of the Legislative Councils of these colonies and of the West African Lands Committee who recommended that the Secretary of State take action to prevent the creation of new vested interests of this nature.[33]

It does not appear, however, that the oil extraction concessions were successful. Their failure, according to Sir Arthur Slater, the Governor of Sierra Leone, was due to the "natives' unwillingness to sell their fruit for a price which compared unfavourably with what they could make by extracting the oil themselves and selling the kernels."[34] By converting a ton of fruit into oil, a native could secure four pounds, whereas the mill paid him only thirty shillings for the same fruit.[35] Experts also believed that the wild palms were so thinly distributed throughout Sierra Leone that no mill could profitably be fed by their produce, and that one such mill required the fruit of an area covering five thousand acres of planted palms.

In 1924 a committee appointed by the Secretary of State for the Colonies, to consider the best means of securing improved and increased production of Palm Oil and Palm Kernels, reported that just as the forest rubber industry of West Africa had been practically eliminated by the rubber plantations of the East, there was a danger that the palm oil and kernel industry would suffer in the same way. It believed that to place the West Coast industry upon the proper basis, mills should be erected, and that the mill-operator should, if he desired, be allowed to acquire a plantation area for cultivating oil palms, "so as not to be entirely dependent on the natives for bringing sufficient fruit to his mill." It agreed that "the ideal arrangement in British West Africa is that the palms should be cleared and cultivated by their native owners, who should collect the fruit and sell it to the central mill. . . ." But they were satisfied that plantations were a necessary inducement to Europeans to erect mills.[36]

Apparently acting upon this belief, and also moved by the fear of Far Eastern competition, the Sierra Leone Government amended its concession ordinance in 1922, so as to admit concessions not exceeding five thousand

[32] For the Tripartite agreements in the Belgian Congo, cf. Vol. I, p. 527.

[33] Cf. *Minutes of the West African Lands Committee, Africa* 1048, p. 48. The same type of ordinance is found in Chapter 97 of the *Law of the Gold Coast.*

[34] *Address by the Governor, Legislative Council,* 1925-1926, p. 38.

[35] "Sierra Leone Oil Palm Industries and the Establishment of Oil Palm Plantations," *Sessional Papers,* 1925, p. 163.

[36] *West Africa, Palm Oil and Palm Kernels,* Colonial No. 10, 1925, p. 9.

acres if made for the sole purpose of cultivating the oil palm on scientific and commercial lines.[37] These leases are, however, granted only by the Tribal Authority, and not more than one ground comprising an area of a thousand acres may be thus obtained in any one chiefdom.

This ordinance goes further than the 1913 oil extraction ordinance, in that it admits European agricultural plantations of five thousand acres. It is the first victory, however slight, of the plantation school of industry in its campaign against native methods of production on the West Coast.[38] The Sierra Leone Government justifies the admission of plantations of this size on the ground that they will be a good example to natives. But such an example might better be given by government plantations, such as Sierra Leone has established at Njala, and by smaller communal plantations such as have been erected in several parts of the Protectorate.

Commercial firms have also imported a number of palm nut cracking machines suitable for native operation, which show promise of being successfully used.[39] It does not appear that many Europeans have taken advantage of the 1922 ordinance to obtain palm concessions. Nevertheless, should Europeans seek plantations in Sierra Leone, the present restriction of five thousand acres per concession would not have much effect in protecting the native life of the Protectorate. That is to say, ten concessions of five thousand acres each would demand the same number of laborers as five concessions of ten thousand acres each. The number of government plantations is obviously easier to control than that of private estates.

7. *Produce Inspection*

Sierra Leone appears to have taken more successful steps than most other territories in Africa in protecting the quality of native export produce. Under the Native Produce Ordinance, 1918,[40] any person who sells adulterated produce is guilty of an offense. Palm kernels are deemed to be adulterated if they contain foreign matter exceeding five per cent of the total weight. In 1924, a Native Produce (Standardization and Grading) Ordinance was passed[41] which authorized the Governor to make rules prescribing the standard of quality and purity to which such products must conform. Native Produce Rules not only prohibit dealing in palm kernels and piassava without a license, but also provide for the determination of the percentage of foreign substances in palm kernels as follows. A hundred pounds out of each allotment is placed on a clean floor. The

[37] *Ordinances*, 1922, p. 31. They are not deemed to be concessions within the meaning of the Concessions Ordinance, 1902.
[38] For the controversy in Nigeria, cf. Vol. I, p. 767.
[39] *Address by the Governor, Legislative Council*, 1926-1927, p. 44.
[40] Chap. 134, *Laws*, p. 922.
[41] Chap. 135, *ibid.*, p. 926.

kernels are mixed thoroughly, and a portion of at least fifteen pounds is then divided into three samples. The first goes to the owner, the second to the Inspector of Produce, and the third is weighed, thoroughly cleansed, and weighed again. The difference between the weights before and after cleaning represents the weight of the adulterants.[42] Similar rules were applied to palm oil and to ginger in 1925.[43]

Probably the most important effort to improve native agriculture is the Njala Agricultural School. Plans have been made for the extension of the activities of this institution so as to provide an agricultural training center not only for agricultural teachers, but also for native members of the Department of Agriculture; each chiefdom may send a native to be trained to become its agricultural adviser. It is hoped eventually to make the college at Njala something approaching the Imperial College of Tropical Agriculture at Trinidad. The course now requires two years.[44]

[42] Chap. 134, *ibid.*, Vol. III, p. 125.
[43] *Ibid.*, 1925, pp. 158 ff.
[44] "Proposed Sierra Leone College of Agriculture and Protectorate Teachers' College at Njala," *Sessional Paper No. 13* of 1925.

CHAPTER 54

THE COLONY

FROM the administrative standpoint, the Colony, as opposed to the Protectorate of Sierra Leone, is a complicated affair. The "Colony administered as such" consists of the Police District of Freetown, the Headquarters Judicial District, and the Bonthe District. The first district has no administrative officer at its head but is merely under the supervision of the Commissioner of Police assisted by a number of Tribal Rulers, later to be discussed. Part of Sherbro Island, inhabited by an aboriginal population, is administered on quasi-protectorate lines, *i.e.,* the courts of the native chiefs are recognized, and the Protectorate Native Law of 1905 applies. Finally, there are parts of the Colony which are administered exactly like the Protectorate.

1. *The Creoles*

Freetown, the center of the Colony, is dominated by the Creoles, the descendants of the expatriated slaves.[1] For the last century, Freetown has been regarded as the intellectual center of West Africa, because of Fourah Bay College, established by the Church Missionary Society in 1827. The college has been the only institution in West Africa where an African could obtain an education which pretended to correspond to the education received in an English University.[2] Many of the leading Africans of the Gold Coast and Nigeria, as well as of Sierra Leone, have graduated from this institution. The college has been affiliated with Durham University since 1876, and about half of its graduates have received Durham University degrees. The literary nature of the course is indicated by the fact that all candidates for entrance have been obliged to pass an examination in Latin, Greek, mathematics, English, religious or ancient history, and English history or physical and general geography. The authorities have

[1] The Creoles are sometimes called the Liberated Africans. They are descendants of: (1) Settlers brought to the Colony in 1787 and subsequent years, (2) Nova Scotian immigrants, (3) Maroon immigrants, (4) Liberated Africans placed in Sierra Leone in accordance with the enactments made for the suppression of the slave trade. *Census of 1921,* p. 10.

[2] For the early history of this college, see James Denton, "History of Fourah Bay College," *Jubilee Volume of the Sierra Leone Native Church,* London, 1917, p. 247.

recognized that the curriculum is altogether too literary and classical to meet the needs of African communities, and plans are now being made to introduce work in the physical sciences.

As a result of more than a century's effort of the Church Missionary Society, a Sierra Leone Native Church has been established, under a European Bishop, having a membership of about twenty thousand. The Wesleyan Methodists also have a membership of about twelve thousand. About thirty-nine thousand out of the eighty-five thousand persons in the Colony are members of some church—a larger percentage than in any other part of Africa. Church membership, however, has not materially increased since 1881.[3] During the same period, the number of Mohammedans has increased from about five thousand to sixteen thousand five hundred—an increase due not to conversion, but to the influx of natives from the Protectorate.

Of the total population of 85,163 found in the Colony of Sierra Leone, 44,142 live in Freetown. The population of this city increased by about ten thousand between 1911 and 1921. But this increase, it appears, was due more to artificial than to natural causes. As the census says, "In addition to the constant immigration of natives from the Protectorate during the Great War, thousands of men were recruited in the Protectorate for service in the Carrier Corps and the Inland Water Transport in East Africa, Cameroons, Mesopotamia and elsewhere. On the conclusion of their service, they were repatriated to Sierra Leone and have, in many instances, remained in Freetown. Having through force of circumstances seen something of the world and something of the doubtful attractions of civilization, they are at present unwilling to return to their uneventful and peaceful lives in their own villages in the Protectorate, but prefer to eke out a precarious existence in the crowded capital of the Colony." [4] The result is that the supply of labor is much greater than the demand in Freetown, and some natives, reduced to poverty, are tempted to crime. Between 1910 and 1920, the crime rate increased from 23.1 per thousand of the population to 29.3 per thousand. It is believed that the overpopulation of Freetown, which is presumably responsible for these results, is only temporary and that eventually the Protectorate will reabsorb its prodigal sons. The mushroom character of this growth is shown by the fact that despite the addition of ten thousand residents, the number of inhabited houses in the Colony during this period declined nearly two thousand.

While the Creoles or descendants of the original negro settlers of

[3] Cf. *Census of 1921*, p. 18.
[4] *Ibid.*, p. 5.

the Colony still dominate Freetown, it appears that they are on the decline. The census for 1911 returned the Creole population as 31,078 in 1911 and 28,222 in 1921, which, including three hundred and fifty-eight mulattoes counted separately in 1921, gives a decrease in the Creole population of nine per cent.

The reason for this decline in the Creole population is not attributed directly to physical causes, but rather to the fact that this population does not take to agricultural enterprise. The Creoles seek employment as clerks in offices, in stores, or with the government—the openings for which depend to a large extent upon agriculture and trade. When these openings are not found in Freetown, the Creoles look for work in Nigeria or even the Belgian Congo. The increases in the native population of the Colony are due to the movement of the natives from the Protectorate who appear to be occupying farm land in the Colony, and to such people as the Krus, nearly five thousand of whom have taken up their residence in Freetown for the purpose of performing work in connection with the Colony's shipping. The Kru population has increased more than three thousand during the last ten years.

2. *The Syrians*

Another alien element in the Colony is the Syrians, the number of whom in 1901 was forty-one, a figure which increased to one hundred and seventy-five in 1911. Since then, the population has remained virtually stationary. In 1921, it stood at one hundred and seventy-seven.[5] The number of Syrians was less in 1921 than several years previously because of the exodus after the riots of 1919. These riots were caused by natives angered by the competition of Syrian traders who had ruined many native hawkers, especially women accustomed to pick up money by a little part-time work. Natives likewise also accused the Syrians of cornering the rice crop and thus increasing the cost of living. Apparently native strikers helped to instigate the row. In the riots which broke out, Syrian shops were damaged and destroyed. The government awarded the Syrians compensation for these damages to the extent of thirty-seven thousand pounds, and it obliged the Freetown City Council to pay toward this sum an indemnity of five thousand pounds, spread over ten annual payments.[6]

[5] *Ibid.*, p. 9. As early as 1898, the Syrians invaded French Guinea and the Sudan, undercutting European traders wherever they went. Cf. A. Arcin, *Histoire de la Guinée Française*, Paris, 1911, p. 663.

[6] Cf. Riots (Damages) Ordinance, 1924, *Laws*, Chap. 182, p. 1307. This act was deemed to have come into force on January 1, 1919. Cf. also *Legislative Council Debates*, 1922-1923, p. 104.

3. *Kru Labor*

The Kru people, originating in the Kru Coast of Liberia,[7] are unique among the tribes of the West Coast in that they earn their living by going to sea. Until recently, few harbors of the West Coast have possessed wharves alongside of which it is possible for vessels to dock. Even now, except at Lagos, Dakar, and Matadi, it is the general rule for a vessel to anchor out in the roadstead and lower cargo and passengers by means of "mammie" chairs into small boats which are then rowed ashore by native oarsmen. The deck work of loading or unloading these boats is performed by Kru boys whom European vessels pick up on their outward voyage at Freetown or Monrovia, and discharge at the same points on their homeward voyage. When a vessel nears Freetown, it telegraphs to its agent the number of boys and the headman it wishes. The agent thereupon notifies the headman who collects the boys and takes charge of them during the voyage. Usually a boat takes on from fifty to eighty men; and in case the ship's captain has not specified a particular headman, the company asks the tribal ruler of Krutown to designate one. Upon selecting a headman, the company usually makes an advance of wages of a pound a head—which the headman distributes. On shipboard, he is given rations which he likewise distributes among the men, while he receives a check for the total amount of wages due the men at the end of the voyage. A headman usually receives a wage of four shillings a day, and a deckhand a wage of from two shillings to two shillings six pence. In addition, the headman invariably levies a tribute of four to five shillings from each man at the end of the voyage. Frequently, the headman also subjects these boys to other exactions.

In 1905, the Sierra Leone Government attempted to see to it that the customary tribute to the headmen partly went to the development of the Kru community in which these men lived with their families when not at sea. At that time, the government issued a regulation providing that the headman of each gang of Krumen should pay a shilling to the Tribal Authority for each member of the gang, and that this money should be disbursed by the Tribal Authority for such purposes as the relief of the poor and sick, the burial of the poor, education, and the relief of distress. These rules also provided that no Kruman could go to sea without reporting to the Tribal Authority. Rules also provide that every Kruman engaged on any steamer who disobeys the order of a headman is liable to a fine not exceeding one pound; if he refuses to work efficiently in loading or unloading a vessel in Freetown he is also liable to a fine. Apparently in

[7] The Krus are also discussed in connection with Liberia; cf. Vol. II, p. 774.

the belief that these sums were not being properly expended, the Governor in 1906 directed that these sums should be paid by the shipping company directly into the treasury or to the Post Office Savings Bank. At that time, it appeared that each Kru paid to the headman a sum of five shillings and that it was the intention of the regulations to deduct one shilling for the Tribal Fund so that the total sums paid out by the Krus would remain five shillings. But instead of following out this understanding, the headmen, unbeknownst to the government, obliged the men to pay six shillings in all.

While few complaints against this system were made before 1914, the War altered conditions. As a result of the increased demand for labor, other tribes came into the town to work. But the end of the War brought a shipping slump, while the supply of labor continued to grow. In 1920, a number of Kru deck-hands approached Elder, Dempster and Company, the leading English steamship company, and the government, protesting against the exactions of these headmen. This led the administration to institute an inquiry. While neither the Krumen nor the companies expressed the wish to abolish the system of working through headmen, both agreed that in order to limit their exactions the headmen should pay off the deck hands at the Kru court in the presence of the Tribal Ruler. Disputes over wages could then be decided by the ruler.[8]

This procedure was resented by many headmen who now started a campaign against the Tribal Ruler who had cooperated with the government in limiting these levies. They accused him of having made illegal exactions, and asked that he be removed from office. Upon investigation, the government found it was true that the Tribal Ruler in 1923 had started, but with the approval of the Kru community, the collection of a "special fund" for the purpose of assisting their relatives in Liberia to pay a heavy fine imposed by the government of that country. The government found that there had been some irregularities in the collection and expenditure of this fund, which it attempted to correct by authorizing the Commissioner of Police to make a periodic examination of the Kru accounts.

The government decided, however, that the charges of the headmen against the Tribal Ruler were unfounded. A small minority, nevertheless, continued to make trouble, and created so much disorder that the Governor deported the leader, who was a native of Liberia.

In 1924, complaints were again made that the Tribal Ruler of Krutown was collecting from the headmen an unauthorized levy. After inquiry, the government learned for the first time that instead of deducting a shilling for the tribal fund authorized in 1905 from the five-shilling levy, the

[8] *Address by the Governor, Legislative Council,* 1922-1923, pp. 64, ff.

headmen had, for the last twenty years, collected a total of six shillings, one of which they paid to the tribal fund. Following the War, the new population of Krutown increased the demands on this Fund which became so heavy that the Tribal Rulers decided to make the headmen pay over to the fund an extra shilling per man which would reduce their income to four shillings as was the intention of the regulation of 1905. This at once aroused the opposition of the headmen who protested to the government. In an investigation, a government commissioner learned that because of the increased population, there was much unemployment among the Krus and that the average boatman was ashore half the year. The investigation also brought out the fact that headmen made many exactions above the regular six-shilling assessment. This was particularly true of an "employment" fee charged some natives for finding them a job. It was the custom of some headmen to advance to a native in return for a commission money which they had borrowed from a money-lender. At the end of the voyage, these advances were deducted from the Kruman's pay. While the commissioner did not believe the customary exaction from deck hands nor the system of advances should be done away with, he believed that the Kru ruler should be authorized to make regulations strictly prohibiting any exactions beyond four shillings, and providing that all advances of headmen should be made in the Kru court house in the presence of the Kru Tribal Ruler or a representative as a witness.[9] It appears that such regulations were issued.

From the steamship company's standpoint, this system of employing men through headmen possesses distinct advantages. From the standpoint of the native deck hand, the advantages are perhaps less. Nevertheless, the system saves the native the trouble of dealing directly with the employer, and it has apparently been created by the Krus themselves, and not by the European shipping companies. It does not appear that the Kru deck hands wish to abolish it, nor even to dispense with the customary four-shilling levy. They merely wish to be relieved of irregular exactions.

Inasmuch as these Krus are employed on vessels stopping from port to port, they are practically at the mercy of their headmen and the ship's captain. In the past, complaints that these laborers were ill-treated have been more frequent than they are at present. In order to provide them a form of redress, the Government of Sierra Leone has enacted a Manual Labor Regulation[10] which authorizes (sec. 12) a Tribal Ruler to inquire into any complaint made by a laborer belonging to his tribe against his

[9] "Papers Relating to Amounts paid by Kru Seamen and Headmen to the Kru Tribal Fund, and the Administration of that Fund," *Sessional Paper No. 1 of 1925*, Sierra Leone.

[10] Chap. 120, *Laws*, p. 855.

employer. If satisfied that the laborer is entitled to relief, he may apply to a British court for a summons, which shall be granted free of charge. It would appear that under this power, the chief could bring about the arrest of a ship captain upon the entrance of a ship into Freetown harbor.[11]

4. *Tribal Administration in Freetown*

Freetown has made perhaps more successful attempts to group together natives living in industrialized conditions under tribal authority than any other city of Africa. The Tribal Administration Ordinance [12] authorizes the Governor to recognize chiefs over tribal groups living in the city. At the present time, fourteen different groups are thus recognized in Freetown and Waterloo. Living in communities of their own, natives are under the authority of a chief selected by the community such as the Tribal Ruler of Krutown, which is probably the most advanced of these communities.

Before granting a petition from a community for the recognition of a chief, the Governor refers the request to the Corporation of Freetown [13] for its opinion. If it has no objection, the Governor usually recognizes the chief. Thus recognized, the Tribal Ruler has power, acting with the headmen, to make rules in regard to about a dozen subjects such as indebtedness, the relief of the poor, burial, education, and the registration of births and deaths, which are subject to the approval of the Governor and of the Corporation of Freetown. Having been approved and published in the

[11] These regulations also provide that any laborer or boatman who refuses or neglects to perform his work is liable to a fine not exceeding two pounds and, in default of payment, to imprisonment for one month. But if the court finds that he has just cause for neglecting work, it may refuse to impose the fine, or it may order the employer to compensate the person for having to attend court.

Laborers working outside of the Territory under contract are controlled by the Native Labor (Foreign Service) Ordinance (Chapter 133), which provides that no native laborer shall be engaged for service outside the Territory unless he has the consent of his chief, or in case he has no chief, unless he has the certificate of a magistrate issued after he is satisfied that he is physically fit, that he is not abandoning his family, or that he has provided for their maintenance, and that he is above sixteen. An employer or recruiter wishing to recruit labor for service outside the Colony must first obtain a permit from the Colonial Secretary, good for a period of three months, to recruit the number of men specified. Contracts are signed before the magistrate, who must furnish a list of the persons on such contracts to the police who check the names at embarkation. Such contracts are limited to thirteen months, and the employer must provide return passage. At least half of the wages must be paid upon return. When a magistrate believes that an employer has ill-treated the laborers, the Governor may cancel the contract; and every laborer whose contract has been cancelled shall be conveyed to his home at the expense of the government which is authorized to take action to recover these charges from the employer.

The master of the ship shall not discharge any member of his crew who is a native of British territory in any foreign port, except in the presence of the British consul. Deck passengers who have been laborers must carry their certificates.

[12] Chap. 217, *Laws*, p. 1498. [13] Cf. Vol. I, p. 882.

Gazette, they enter into full force. The chief may also levy taxes upon members of the group for tribal purposes, and may impose a fine upon a person refusing to obey the rules or pay these contributions. Such a person may appeal to the European Police Magistrate who, if he does not consider the fine excessive, may order its collection. He may also increase or diminish it.

In addition to exercising this legislative power, the Tribal Ruler, who is recognized for a period of five years, is obliged to assist the police and justices of the peace. While he may himself try minor offenses, he hands over to the European authority the natives charged with crimes such as robbery with violence and murder.

Some of the rules issued by these Tribal Rulers are of interest. Thus the Tribal Administration Rules for the Krus provide that all members of the Kru tribe resident in Freetown are subject to the Tribal Ruler. All unmarried Kru girls over sixteen must register with him. The ruler is authorized to settle disputes between members of the Krus relating to indebtedness, the pawning of property, personal property, responsibility for the maintenance of aged and sick relatives, and all other matters affecting the peace and well-being of the tribe. The rules also provide that no Kru boy under sixteen may be included in a headman's gang to work on a steamer. Any person who incites another to drink sasswood for the purpose of "proving witch" is guilty of an offense. The rules also define the purposes of and fix the rates for contributions for the Tribal Fund discussed above.[14] The eldest member of each Kru family is responsible for the proper burial of its deceased members.[15]

Rules for the Foulah community likewise provide that every Foulah man shall pay the sum of one shilling monthly to the Tribal Authority to be used for communal purposes.

By such means, an attempt is made—unique in Africa—to maintain a form of the old tribal control over natives in the towns who otherwise would, as they do in most towns in Africa, live an undisciplined existence. While this experiment has not entirely prevented the demoralization inevitably produced by city life, one is led to believe that the effort has been well directed.

5. *The Legislative Council*

In Sierra Leone, the same demand for native representation on the Legislative Council has arisen as in the Gold Coast. The Sierra Leone Legislative Council has existed since 1863.[16] Between 1903 and 1924,

[14] Cf. Vol. I, p. 877. [15] *Laws,* Vol. III, p. 546.

[16] Before this date, however, various other councils existed. Cf. J. L. John, "Memorandum on the Evolution of the Legislative Council of Sierra Leone," *Legislative Council Debates,* 1924-25, pp. 232 ff.

the council contained five official and four nominated unofficial members, of whom three were Africans and one a European. As a rule the three African members all came from the vicinity of Freetown. The Protectorate had no representative, despite its great numerical preponderance.

Following the establishment elsewhere of legislative councils having elective members, the Duke of Devonshire said: "What has already been granted to Lagos and Calabar cannot reasonably be refused to Freetown." [17]

At about this time, the West African National Congress asked for a council including five elected Africans to represent the Colony, and two nominated Africans to represent the Protectorate. Partially granting this request, the government announced in December, 1922, that a new legislative Council would be established composed of eleven official and ten unofficial members, three of the latter to be elected by qualified voters of the Colony, two representing the city of Freetown and one the remainder of the Colony. Of the seven members nominated by the Governor, two would represent the commercial interests, two would be Africans from the Colony, and three would be Paramount Chiefs, one from each province of the Protectorate. At least one of these chiefs should be a Mende and another a Temne. Two years were occupied in drafting the delicate constitutional instruments necessary to effect the change. The council was finally established in November, 1924.[18]

In granting representation to the Protectorate in the Legislative Council, a difficulty arose because of the legal nature of a Protectorate, the chiefs of which might not be able to take an oath of allegiance to the Crown. The Secretary of State first ruled that they could not do so; but he later reversed this opinion. It was pointed out elsewhere that soldiers enlisting from the Protectorate had taken such oaths for a long time.[19]

The electorate for the council is confined to male British subjects or natives of the Protectorate capable of reading and writing English or Arabic, and having resided for twelve months within the electoral district in which they wish to vote. Sierra Leone is the only one of the three colonies having elected representatives which exacts a literacy test for voters. In the urban electoral district, a voter must also own property having an annual rental value of not less than ten pounds, or have a yearly salary of not less than a hundred pounds. In the rural electoral district, he must have property of not less than six pounds in annual rental value or

[17] Despatch, November 29, 1922, *Sessional Paper,* No. 1 of 1923. An Under Secretary of State for the Colonies had also recommended elective representation for Grenada, St. Lucia, and St. Vincent, having populations smaller and not more advanced than Sierra Leone.

[18] Sierra Leone (Legislative Council) Order in Council, 1924, *Laws,* p. 906.

[19] *Legislative Council Debates,* 1922-1923, p. 181. For this difficulty in Tanganyika, cf. Vol. I, p. 430.

a yearly salary of not less than sixty pounds. A member must possess property to the value of two hundred and fifty pounds for the urban and of one hundred pounds for the rural electoral district. The number of voters who registered in 1923 in the urban district was 1016, and in the rural district, three hundred and thirty-nine. A smaller proportion of voters registered in the rural than in the urban district. In the first election eighty-nine per cent of the registered voters took part—a percentage considerably higher than that usually cast in elections in Nigeria, or, for that matter, in the United States. Only twelve out of 1214 ballots were spoiled.[20]

Shortly after the new council came into existence, the railway strike [21] occurred, which afforded the elected members an opportunity to vent their grievances against the government. While these members have no actual power, the strike incident showed that they had a forum from which they may loudly express their grievances. So far, most of the elected members have maintained a policy of unbending opposition to the government, which according to officials has made the task of administration more difficult than before.

6. *The Freetown Municipality*

In 1893, the British Government established a form of government in the city of Freetown which vested more power in an African community than exists in any other city in Africa. The management of the city was placed in the hands of a council composed of a total of fifteen members, twelve of whom were elected by the people [22] and three appointed by the Governor. Elections were held in wards. This council elected from among its own members a mayor who was in charge of the general administration of the city. Among the nominated members, the government appointed to the council a medical officer of health and the commissioner of police.[23]

In establishing the Freetown Municipality, the British Government for some reason did not follow the practice of other parts of the Empire in establishing civic bodies at first having a government majority. The

[20] Unlike the Council of Nigeria, the Council of Sierra Leone contains a representative of missionary interests in the form of the Bishop of Sierra Leone. During the railway strike, the Bishop, as a member of the council, came to the support of the government, which antagonized a number of Native Church members. Experience would appear to show that as a member of the council, a missionary must take a stand on political questions which will injure his religious work. Many missionaries, therefore, believe it is better to have their interests represented by a layman rather than by one of the clergy.

[21] Cf. Vol. I, p. 887.

[22] To be eligible, a councillor has to own property worth two hundred pounds.

[23] For the consolidated law, cf. Freetown Municipality Ordinance, 1924, *Laws*, Chap. 80, p. 566.

African population of Freetown did not pass through any educative stage, but was called upon to assume at once the obligations of governing the hub not only of the Colony, but also of the Protectorate.

Under these circumstances, it is not surprising to find that popular interest in the government of the municipality has not been great. Under the law, every man who owns or occupies property having an assessed annual value of six pounds and who has paid his city rate is eligible to vote. But in 1924, there were only six hundred and seventy-four registered voters in the city, or about half of the number who registered for the Legislative Council elections.[24]

The number is less than that registered in 1900—eight hundred and forty-eight. This decrease is largely due to the fact that taxpayers in arrears cannot vote. Election campaigns have also been vigorously criticized. The mayor, an African, commented upon the election of 1915-16 as follows: "The electioneering campaign this year has been of a disgraceful character when compared with many others that have taken place in previous years. I trust the vulgarity to which it descended will not be repeated again. Men who can stoop so low as to be parties and join issue with hooligans should be debarred by legitimate means to make entrance to the City Council of Freetown impossible. . . ." [25]

Throughout the course of its history, the City Council of Freetown, composed almost entirely of African members, has been entrusted with power over the following subjects: fire protection, public markets and slaughter-houses, roads, sanitation, building regulations, water supply, cemeteries, places of public recreation, and street lighting.[26]

While from the beginning, the Sierra Leone Government agreed to keep the roads of Freetown in repair, the corporation was originally required to keep them clean. But in 1912, following an investigation by Professor W. J. Simpson of sanitary conditions in West Africa, the administration relieved the city of the responsibility of carrying out this and other sanitation provisions, including the regulation of buildings. Henceforth, the undertakings of the City Council were limited primarily to fire protection, markets, street lighting, cemeteries, and water supply.

In order to finance these activities, the council has levied a city rate, together with a water rate, which have amounted to thirteen per cent of the annual value of city property—a rate half that paid in English municipalities. This rate has not, however, furnished the council with sufficient

[24] *Sierra Leone Blue Book,* 1924, p. 63.
[25] *Quoted by the Governor, Legislative Council,* 1925-1926, p. 124.
[26] Cf. Sec. 106, Freetown Municipality Ordinance; and *Report of the Commission of Inquiry into the Affairs of the Freetown Municipality,* by Sir Charles O'Brien, May-July, 1926, p. 6.

revenue, and it has been obliged to resort to grants-in-aid from the Sierra Leone Government. The Colonial Administration also renders services to the municipality in the way of sanitation, police, and the upkeep of roads, amounting to about thirty-six thousand pounds a year. On the other hand, the Corporation loses about 2750 pounds a year in municipal rates because of the exemption of Colonial Government property from local taxation. In order to finance a waterworks extension, the Corporation has also contracted a loan from the Colonial Government.

Despite this aid, the Corporation of Freetown showed a deficit in eight out of the twelve years between 1912 and 1924. While this deficit may have been partly due to post-war conditions, it was also due to the failure of the Corporation to collect its taxes. During the last twenty-five years, the arrears in the city rate have been more than ten per cent in all but five years, and since the War they have exceeded twenty per cent.[27]

Accumulated arrears in the city and water rates for the year 1923-24 amounted to 2,468 pounds. These rates, the responsibility for the collection of which rests with the Freetown Corporation, are the only direct taxes which the inhabitants of Freetown are obliged to pay.[28] In some years, the council has attempted to prosecute defaulters, but most of the time it has been only lukewarm in these activities. The African editor of the *Sierra Leone Weekly News* complained: "Year in and year out this condition of things has continued. We must frankly state that there could be no justification on the part of the Council for failing to carry out this important though unpleasant duty. The situation becomes all the more unjustifiable when it is considered that it has been found that the defaulters are not generally among the poorer classes; both in the matter of licenses and the payment of municipal rates, it is believed that the defaulters are amongst the well-to-do citizens (*sic*) than otherwise." [29]

In another article, the same paper declared that "it has been an open secret that even some of the Councillors who impose the taxes and should be examples in this matter, have too often been at fault. . . ." The British auditor of the municipality accounts likewise has stated: "The longer the Council is content to allow householders to evade their dues, the more the habit of procrastination—with the hope of ultimate evasion—will become installed in the mind of the people." [30]

Financial difficulties were created not only by the failure to collect

[27] "Freetown Municipality," Appendix to the *Address by the Governor, Legislative Council,* 1925-1926, p. 148.

[28] No direct taxes are collected in the Colony.

[29] Quoted, "Freetown Municipality," *Address, cited,* p. 149.

[30] "Auditor's Report on the Accounts of the Municipality of Freetown," 1923-1924, *Sessional Paper,* No. 7 of 1925.

taxes but by a loose control of the city funds. In February, 1926, the town clerk was convicted on a charge of false pretences with intend to defraud the city treasury. His conviction was followed by that of a clerk in the service of the municipal government for forging a requisition of the City Council. In the spring of 1926 more serious proceedings still were taken against the Mayor, the City Treasurer, and a Municipal Foreman of Works who were convicted on a charge of conspiracy to defraud. Other employees were similarly convicted.

The Mayor of Freetown, who was sentenced to nine months' imprisonment, was tried under the Jurors and Assessors Ordinance which authorizes (sec. 41) the Attorney General in the case of public officials charged with criminal offense affecting Government property to demand trial by a judge and assessors in place of trial by jury.[31] In ordinary cases the accused may elect to be tried by assessors. While the judge is bound by the opinion of the jury, he is not bound by the opinion of the assessors. The accused does not have the right to challenge an assessor; but it is the practice of the Chief Justice to heed the objections of the accused in making a selection.

In trying the Mayor of Freetown, the Attorney General invoked the provisions of this ordinance so that the trial was conducted by a judge and one African and two European assessors. All three of these assessors expressed the opinion that the charges against the Mayor had not been proved; but the judge overruled their objections, as he could legally do under the ordinance, and sentenced the Mayor to nine months' imprisonment. He also denied the Mayor's request for an appeal. Despite the legality of the action, the sentence at once brought forth the violent criticism of the African residents of Freetown, few of whom believed that the Mayor, whose reputation had previously been spotless, was guilty. Whether or not the Mayor had committed the offences with which he was charged, it was inevitable that the procedure by which he was convicted would cause ill-feeling. Sierra Leone might either follow the system of jury trials, or try the cases by a bank of three judges, one of whom might eventually be an African. Apparently realizing that the procedure employed in obtaining this conviction had produced harm, the government released the Mayor before he had served a third of his sentence.[32]

[31] *Laws,* Chap. 106, p. 747.

[32] *The African World,* August 14, 1926, p. 107. In his report on West Africa, Mr. Ormsby-Gore upheld the Assessors Ordinance on the ground of the "circumstances obtaining in Freetown, which consists of a comparatively small community most of whose members are personally known to each other," and also because the "educational standard of many of those entitled to serve as jurors is still low." He also believed that trial by jury would in cases involving racial antagonism be a travesty on justice. Cmd. 2744 (1926), p. 160. It would appear, however, that the maintenance of a "dummy" system of assessors, without the right of appeal,

Distressed at the condition of municipal affairs, the Sierra Leone Government asked the Secretary of State to appoint a special commissioner to investigate and make recommendations in regard to the Freetown Municipality. This task was confided to Sir Charles O'Brien, late Governor of the Barbados. He found that the municipal accounts had not been correctly nor carefully kept.[33] The colonial auditor could not legally compel the council to adopt any suggestions as to the improvement of accounts.

In his inspection of the municipal undertakings of the Corporation, the commissioner found an equally depressing state of affairs, except in the case of the water works, which an African engineer conducted with remarkable efficiency. But in regard to other municipal departments, the commissioner stated: "The City Council has failed to provide Freetown with municipal services of even moderate efficiency. The condition of the markets and the slaughter houses is deplorable. The street lighting is inadequate. The cemeteries are ill-kept. It cannot be pretended that the fire brigade provides any serious protection against fire." [34] He went on to say: "The aggregate revenue of the Corporation has in recent years been over £15,000 a year. It is difficult to perceive what civil services have been rendered with this money. There is no evidence of any considerable capital expenditure for some time past. The revenue which the Council has enjoyed should have been sufficient with honest and business-like management to have kept in an efficient state the civic undertakings which are now in decay." As a result of his investigation, the commissioner was led to conclude not only that the Colonial Government should take over the fire protection of Freetown, but also that the present system of municipal government should be supplanted by a council composed of five [35] members nominated by the Governor, including an official in the Colonial Treasury, one official of the Sanitary Department, two representatives of the European commercial community, and either an African or a European at the option of the government, together with five elected members. If the number of electors who vote is less than 55 per cent of the total registered voters, the election should be void. There would thus be virtually an official majority. The Governor should also appoint a European official as mayor. The Colonial Audit Department should be given greater powers with regard to municipal accounts.

will merely provoke inter-racial feeling, while rendering the system of justice open to the possibility of abuse.

[33] The cash book had not been posted daily, nor even balanced at the end of the month; abstract and classification books had not been correctly kept; the journal had not been used; the ledger had not balanced, and balance sheets had not been forthcoming. *Report of the Commission of Inquiry into the Affairs of the Freetown Municipality*, 1926, p. 14.

[34] *Ibid.*, p. 18.

[35] Excluding the mayor.

In his address to the Legislative Council, in November, 1926, the Governor of Sierra Leone indicated that he had recommended to the Secretary of State that some such changes should be made. In December, 1926, this experiment in local self-government along European lines, instituted in 1893, came to an end. The blame for the failure cannot, according to the commissioner, "be placed upon the shoulders of Africans alone." He continues: "The institution was not an organic growth. It was forced full-fledged upon a people who were not ripe for the experiment. They were expected to work, without any preliminary training, a type of institution which those who imposed it upon them had only learned to work through centuries of experience. They had no practical knowledge of what was implied by the provision of satisfactory municipal services; and they had, therefore, no standard of comparison by which to measure the success of their activities." [36]

This ill-fated experiment cannot be taken as evidence that the African is permanently incapable of self-government. It simply bears out similar experiences in the Gold Coast and Nigeria indicating that Africans cannot be expected to carry on the administration of what are, after all, European communities. The native population of Freetown owes its existence to European enterprise. The city is primarily European, in so far as the problem of administration is concerned. The experience of Freetown would appear to indicate that the future political development of the African must follow along native lines, and that this development will come by granting increased judicial and financial responsibility to tribal authorities. In this system, the African "scholar" class, which crowds the towns, will occupy an anomalous position. New systems of education will send many of them back to their communities. The others, it appears, must be content, as far as politics are concerned, with occupying positions of subordinate authority in European offices, or with serving as a minority upon European councils. Eventually, they may evolve an experience which will justify imposing "European" administrative duties upon them. But it should be emphasized that the real future development of Africa lies in the development of institutions which have originated in Africa and not in Europe. These institutions may eventually approach the form of European institutions, but the changes should be gradual, and they should arise out of the native group instead of being imposed from without.

7. *The Railway Strike*

The trials of Sierra Leone have been industrial as well as political in nature. Under the influence of British example, the natives of Sierra

[36] *Report, cited,* p. 23.

Leone employed on the government railway have organized a labor union, and have staged several strikes. In 1919, an organized railway strike broke out, led by some employees who claimed that the government had failed to pay them a promised bonus. It was followed by a strike of the African employees in the Public Works Department. A strike of two thousand four hundred native policemen also occurred at about this same time, virtually all of whom were as a result dismissed.[37] The Syrian riots which took place during this period were believed to have been instigated by the railway strikers.

In January and February of 1926, a more serious strike occurred, organized by the African Railway Workers' Union. It appears that this was the first industrial disturbance in Central Africa patterned on a European model. This strike was apparently caused by the efforts of the Railway Administration to improve the standard of work of the native employees of the road. In 1925, the Governor reported that the standard of work of these Africans remained "deplorably low" and that the staff seemed "almost completely to lack a proper sense of their duty to the Government" or to the public.[38]

So great was their ignorance, that the general manager informed the native employees that they would be entitled to their incremental increase in salaries only after passing a simple examination in arithmetic, general rules and regulations of the railway, electric train staff instructions, ticket inspection, and station accounts. But the clerks as a body declined to take the examination. The administration retaliated by refusing to grant salary increments which the employees otherwise would have received. The employees demanded the payment of these increments regardless of the examination; they also asked that a larger number of Africans be appointed to pensionable establishments. Other employees demanded higher wages. Failing to receive satisfaction, the Railway Union without serving notice on the administration ordered the men to strike. Meanwhile, it proceeded to organize a strike fund. The Governor replied by dismissing the junior clerks and by employing strike breakers, some of whom were West Indians. The general manager of the railway published a notice stating that he had been informed that "certain members of the staff contemplate ceasing duty without warning or permission." He warned the staff that "anyone so ceasing duty" would be "regarded as dismissed,

[37] Statement of the Governor, *Legislative Council Debates,* April 9, 1926, p. 72.
[38] *Address by the Governor, Legislative Council,* 1925-1926, p. 90.
The Governor also said that African employees on the railway and elsewhere practiced extortion on "illiterates," refusing to handle their consignments without having their palms liberally greased. To escape such practices, many illiterates preferred to carry their loads long distances.

and as having broken his service" and if subsequently again employed would only be "re-engaged as a new entrant at such rates of pay and on such conditions of service as Government may decide." [39]

At the end of six weeks, the government had succeeded in breaking the strike. It declined to take back into the service thirty-seven pensionable employees, some of whom had worked for twenty years. Others it took back only after a temporary reduction in pay ranging from thirty shillings to six pounds. These measures led the Africans to declare that the government was attempting to destroy the Railway Union and that it denied the right of the Africans to strike.[40]

The government denied that it had any intention of breaking the union; its responsibility was to maintain the country's system of communication; if the men chose to strike, the government was entitled to employ men to take their places. This was not an ordinary industrial dispute in which the government was a neutral party. "This was a revolt," according to the Governor, "against Government by its own servants." The Secretary of State for the Colonies telegraphed: "The strikers must realize that as Government servants who have left their work without leave, they are liable to the penalty of instant dismissal." In the debate on the strike, the Governor went so far as to imply that even if the employees were not Government servants, they would be liable to a fine under the Manual Labor Regulation of the Colony which makes any laborer who refuses to perform his work without "just cause" liable to a fine not exceeding two pounds and, in default of payment, to imprisonment not exceeding one month. In other words, the Master and Servants Ordinance of Sierra Leone, mild as it is compared with the ordinances found in East and South Africa, operates to make strikes of any kind illegal.[41]

On the other hand, the African strikers resorted to measures of violence which led the General Manager of the railway to declare: "In my twenty-two years of railway service, I have seen strikes in England and elsewhere, but it was not until I came to Sierra Leone that I saw the disgraceful acts which were done by strikers, and there is no denying these incidents. When I left Boia, two rails were removed in front of my train at one place, and another loosened. At another, a rail was placed across the line. The men lighting up the engine were stoned. When the first train arrived at Bo, a mob armed with sticks attacked the train; rails were removed or loosened on curves, at steep banks and at the approach to a bridge; telegraph poles were pulled down, wires cut, and telegraph instruments

[39] Quoted, *Legislative Council Debates,* April 9, 1926, p 7.
[40] Cf. *ibid.,* passim.
[41] Cf. the remarks of the Governor, *ibid.,* pp. 67 ff.

interfered with, preventing telegraphic communication with the Protectorate." [42] In the midst of the strike, one of the Freetown newspapers hinted that since there was unrest in the Protectorate over the slavery proposal of the government, there was a chance of another rebellion—a statement which the Governor branded as "dastardly." [43]

From reading the debates of both sides in regard to this strike, it does not appear that the strikers had any grievances which warranted a strike and that the methods which they used to bring about and to carry it on were uncalled for. While the government acted with severity, its duty was to maintain the communications of the Territory. At the same time, the strike still further intensified the racial feeling already acute over the question of the Municipality of Freetown. The Governor, Sir Arthur Slater, found himself, to use his own words, hated by the Freetown community. In a melancholy statement, he declared that in their attitude toward the strike, the people had proved unworthy of the principle of elective representation. "That the people should have thus pitiably betrayed their own cause" made him profoundly despondent. He continued: "It was said . . . that by my attitude in the strike I have put the clock back fifty years. I agree that the clock has been put back, but I am quite content to leave it to posterity to decide whose is the hand responsible." [44] This strike was of more far-reaching importance in that it revealed the development of the same type of industrial problem in Africa which has tormented Europe and America for so many years. In Africa, this problem is made infinitely more difficult by the fact that the employer is European and the employees are primitive people. At the present time, it appears that the Sierra Leone legislation makes any organized protest against conditions of employment illegal and that the administration regards any strike of government employees as a disloyal act. Regardless of the merits of the Sierra Leone railway strike, the enforcement of such a policy will in the future lead to industrial violence made worse by racial bitterness.

Whatever may be the defects of administration in Liberia, one does not find there the chasm separating the rulers from the ruled which exists in Sierra Leone. From this standpoint, it cannot be said that the British experiment in founding a home for freed slaves has been as successful as has the similar experiment in Liberia. Despite the fact that the Creole community of Freetown has had a hundred years to build up a new group

[42] *Debates, cited*, p. 24.
[43] *Ibid.*, p. 71.
[44] *Ibid.*, p. 79.

to take the place of the tribal institutions out of which they as slaves had originally been torn, progress in this direction has been discouraging. The example lends weight to the belief that the development of Africa must come through the evolution of groups rooted in the soil.

APPENDICES—SIERRA LEONE

XIX. Native Welfare in British West Africa

1. Native Welfare Expenditures—Sierra Leone
2. Native Welfare Expenditures—British West Africa
3. Medical Work—British West Africa
4. Native Education—British West Africa

XX. A Statistical Comparison of British West Africa and British East Africa

APPENDIX XIX

Native Welfare in British West Africa

1. Native Welfare, Sierra Leone[1]

Department	Amount (£)	Per cent of expenditures
Education	37,298	5.47
Agriculture and Forestry		
Administration, Inspection, and Research	10,645	1.56
Agriculture	14,411	2.12
Forests	11,117	1.63
Veterinary	2,438	.36
Total	38,611	5.68
Medical and Sanitary		
Medical Department	56,353	8.27
Sanitation Department	22,563	3.31
Total	78,916	11.58
Total	154,825	22.73[2]

[1] Given in amounts and in percentages of total ordinary expenditures of £681,609. (This figure does not include railways.)
[2] Source: Sierra Leone Estimates for 1926.

2. NATIVE WELFARE

BRITISH WEST AFRICA

Colonies	Agriculture, Veterinary and Forests		Education		Medicine and Education Sanitation		Total Welfare	
	Amount per 100 persons £	% of Expenditures %	Amount per 100 persons £	% of Expenditures %	Amount per 100 persons £	% of Expenditures %	Amount per 100 persons £	% of Expenditures %
Nigeria	1.049	2.63	1.175	2.95	2.248	5.64	4.472	11.22
Gold Coast	4.580	3.40	7.820	5.78	11.705	8.67	24.088	17.93
Sierra Leone	2.504	5.68	2.424	5.47	5.120	11.58	10.048	22.73
Average British West Africa	1.510	3.03	1.938	3.89	3.409	6.84	6.857	15.51

3. Medical Work

British West Africa

Colony	Admission to Hospitals	Outpatients	Doctors 1926-1927
Sierra Leone	1,862	49,430[1]	22[4]
Gold Coast	10,000	100,000[2]	72[5]
Nigeria	22,590	182,101[3]	125

[1] *Ibid.,* Sierra Leone, 1924, p. 16. This figure is divided between 10,955 new cases and 38,475 subsequent attendances.
[2] 1926 figures, cf. p.
[3] *Annual Medical and Sanitary Report,* Nigeria, 1924, p. 23.
[4] Includes six African Medical Officers and three Junior African Medical Officers.
[5] Includes 8 African Medical Officers.

4. Native Education

British West Africa[1]

Colony	No. of Government and Assisted Schools	Average Attendance
Sierra Leone	126	11,301
Gold Coast	234	30,500
Nigeria	283	36,211

[1] In comparing these figures the fact should be remembered that Nigeria has a population nine times that of the Gold Coast. The latter territory has about 750,000 more people than Sierra Leone.

APPENDIX XX

A Statistical Comparison of East Africa and West Africa

I. West Africa

(In Pounds)

	Population	Area (Sq. mi.)	Imports		Exports		Total Trade		Revenue		Native Welfare Expenditures	
				per 100		per 100		per 100		per 100	per 100	%
Nigeria	18,660.717	365,602	13,870,386	74.3	16,905,795	90.06	30,776,181	164.9	5,403,050	29.0	4.472	11.22
Gold Coast	2,298,433	91,690	8,821,000	383.8	9,815,000	427.0	18,636,000	810.8	2,713,520	118.2	24.088	22.73
Sierra Leone	1,541,311	27,250	1,941,314	126.0	1,627,916	105.6	3,569,230	231.6	681,609	44.2	10.045	17.93

II. East Africa

Kenya	2,606,509	245,060	7,492,252	287.4	2,724,629	104.6	10,216,881	392.0	2,315,808	88.8	17.961	19.55
Uganda	3,145,449	110,300	2,788,365	88.8	5,097,215	162.0	7,885,580	250.8	1,306,761	41.5	8.705	21.06
Tanganyika	4,123,493	373,494	2,863,917	69.5	3,007,879	73.0	5,871,796	142.5	1,542,700	37.5	9.884	24.06
Zanzibar	221,925	1,020	1,789,682	807.5	1,912,407	866.5	3,702,089	1674.0	487,168	220.6	43.310	19.36

III. Summary

British West Africa	22,500,461	484,542	24,632,700	109.5	28,348,711	126.0	52,981,411	235.5	8,798,179	39.1	6.857	15.51
British East Africa.	10,097,376	729,874	14,934,216	147.9	12,742,130	126.2	27,676,346	274.1	5,652,437	56.0	12.334	22.13
British East Africa, exclusive of Zanzibar	9,875,451	728,854	13,144,534	133.1	10,829,723	109.6	23,974,257	242.7	5,165,269	52.3	11.638	22.33

SECTION X

FRENCH WEST AFRICA


Longitude West from Greenwich
Longitude East from Greenwich
RIO DE ORO
Port Etienne
ALGERIA
ATLANTIC OCEAN
MAURITANIA
Senegal R.
St.Louis
Podor
Matam
Thies
Rufisque
Dakar
Goree
SENEGAL
Kayes
Kaolak
GAMBIA
Bathurst
Gambia R.
FRENCH SUDAN
Timbuktu
Niger
Segu Sikoro
Niger R.
Bamako
Waugadugu
UPPER VOLTA
Bobo Diulasso
Volta
Black Volta
White Volta
NIGER TERRITORY
Zinder
Lake Chad
Sokoto
Katsena
BORNU
Kano
Zaria
Kaduna
Zungeru
NIGERIA
Nassarawa
Yola
Benue R.
Niger R.
Oyo
Ilorin
Ibadan
Abeokuta
Benin
Onitsha
Port Harcourt
Bueá
CAMEROONS
FERNANDO PO
PORT. GUINEA
Bissau
Balama
FRENCH GUINEA
Kurussu
Kankan
Konakry
SIERRA LEONE
Freetown
SHERBRO I.
LIBERIA
Monrovia
Grand Bassa
Cavally R.
Bandama R.
IVORY COAST
Kumasi
Bingerville
GOLD COAST
Accra
Volta R.
Quittah
Lome
TOGO
DAHOMEY
Kotonu
Porto Novo
Lagos
Grand Bassam
Seconde
Cape Coast Castle
GULF OF GUINEA
Wms. Eng. Co., N.Y.

West Africa

CHAPTER 55

THE FRENCH OCCUPATION OF WEST AFRICA[1]

WITH the exception of a few islands, the outstanding one of which is Madagascar, and a barren area along the Red Sea, the French territories in Africa lie upon the West Coast.[2] These territories fall into three main groups: French West Africa, French Equatorial Africa, and the mandated territories of Togo and the Cameroons.

The area covered by these territories is truly immense. One can now travel from the French port of Algiers on the Mediterranean Sea, across the Sahara desert to Lake Chad, and then down the Ubangi and Congo rivers till he reaches Brazzaville, and remain all the time under the shelter of the French flag. This part of the Greater France thus extends from thirty-seven degrees latitude north to about four degrees south of the Equator. Except for British enclaves, Liberia, and a few insignificant holdings of Spain and Portugal, the whole of the hump of Africa is in French hands. These three groups have an area of 2,601,395 square miles which is more than twelve times the area of France. Probably half of this consists of sandy desert, and much of the interior is uninviting steppe or savannah country. Relief from this monotony is found in parts of the French Congo, Gaboon, Dahomey, and the Ivory Coast—territory covered with heavy tropical forests and the oil palm.

1. *The Native Population*

Within this vast territory, a population of about fifteen million people is found. Probably nowhere else in Africa do people show such diversity of social organization and of racial composition as in these areas under French sovereignty. This fact is explained largely by geography. France's central African empire is separated from the Mediterranean by the Sahara desert, and by an intervening strip of territory called the Sahel, the most important city of which is Timbuktu. To the south of the Sahel, another strip of territory lies, called the Sudan.

[1] The holdings of France in North Africa, Algeria, Tunis, and Morocco, are, of course, excluded from this discussion. The writer did not visit Madagascar, which explains why it is not discussed here.

[2] Except for names such as the Cameroons, which have international usage, we have followed the French spelling of proper names.

In the fifteenth and sixteenth centuries, the contact between the Mediterranean and the Sudan was continuous, and it led, as we have seen,[3] to the establishment of a number of empires such as the Ghana, Sosso, Mali, and Songhai Empires in the Sudan having a high degree of civilization. While the social and political organization of these empires has long since disappeared, the racial elements which the northern invaders introduced still remain. Nomadic and pastoral peoples who belong to the white rather than to the black race will be found throughout the northern part of French West Africa.

The Moors, totalling about 295,000, occupy the greater part of the colony of Mauretania, and part of northern Sudan. The Touaregs, who closely resemble the Moors, inhabit the Sahara, the Sudan, and the Niger. They number about 250,000. An invading race of much more importance and of a darker skin is the Fulani (Peuls) who number about 1,600,000.[4] They have scattered themselves throughout the whole of French West Africa except in the forest regions along the coast and have intermarried with a large number of native groups. The result of their mixture with the Ouolofs is a group called Toucouleurs, who number about 146,000. Finally, there are the negroes proper, the most important group of which in West Africa is the Mandé, which constitutes the majority of the native population of the Sudan and of Guinea. The two leading families in this group are the Bambaras[5] and the Mandingos (Malinkes), each of which numbers about a million people. The least advanced members of the Mandé group are the Sarrakolés and the Diolas. The latter people live a very elementary existence in that part of the Senegal called the Casamance. In the greater part of Senegal, two negro tribes, the Ouolofs and the Sérères, numbering about half a million, who, as a result of long contact with Europeans have acquired considerable intelligence, live side by side.

The Mossi people living in the Upper Volta, are of even greater numerical importance, numbering about 1,650,000. These people are divided into two main native kingdoms: the Kingdom of Yatenga, and the Kingdom of Ouagadougou, each of which is ruled by kings who date back to the thirteenth century. The basis of the Yatenga kingdom is the village presided over by a village chief, assisted, in some cases, by a religious chief who is also chief of the land. These villages are grouped

[3] Cf. Vol. I, p. 679.

[4] The standard description of these various races is found in M. Delafosse, *Haut-Sénégal-Niger,* Paris, 1912, two volumes, Paris, 1912. One of the earliest studies is A. Hovelacque, *Les Nègres de l'Afrique sus-Équatoriale,* Paris, 1889.

[5] Cf. Ch. Monteil, *Les Bambara de Ségou et du Kaarta,* Paris, 1924; also J. Henry, *Les Bambara,* Münster, 1910, and G. Chéron, *La Société Noire de l'Afrique Occidentale Française,* Paris, 1908.

under a higher chief in units which the French call "cantons," some of which are commanded by the king, others by the nobles, and others by ordinary Mossi.[6] In most cases, the chiefs of the villages and of the cantons are named by the king.

The head of the Yatenga kingdom is called the Yatenga-naba to distinguish himself from the Moro-naba of Ouagadougou. He is selected according to a curious and difficult principle that all the collateral branches of the royal family should be represented in turn on the throne. This has led to many disputes which usually have been settled by force. The king is assisted by four ministers, the first of whom is the Togo-naba, who is the mouthpiece of the king. His chief duty is to invest the new sovereign at his coronation. The second minister is the Rassam-naba, who was originally chief of the slaves, but who is now the minister of finance; the third is the Baoum-naba, or mayor of the palace, who introduces visitors to the king; while the fourth, the Ouidi-naba, is the head of the horses, and in time of war, chief of the cavalry.[7] Following in some respects the practice of the kingdom of Uganda, these ministers are not taken from the aristocracy, but from the commoners, and even from slaves. These rulers have levied tribute and taxes, and maintained a well-organized judicial system. Curiously enough, the Mossi have left the ownership of the land in the hands of the Foulsés, the people who inhabited the country before the Mossi invasion.

For a time following their conquest of these people, it appears that the French wished to reduce the Mossi kings altogether. One writer says, "The French conquest has hastened the end of the power of the Nabas; it is absolutely indisputable that it has rendered a great service to the Mossi in sheltering them from the caprice and the arbitrary nature of these avid and cruel tyrannies."[8] But at present, the French tolerate, and in theory encourage the native institutions of the country.

In the Upper Niger and Upper Dahomey, similar native states once existed. In the tropical forest belt along the coast, there live negro tribes, who have no large scale organization, which the presence of thick forests really makes impossible. Such disorganized peoples, living in independent villages, will be found along the Ivory Coast, French Guinea, and the Gaboon. The chief people of the Ivory Coast forest belt are the Agnes and the Baoulés. While the negro proper occupies a large part of French West Africa, the Bantu is found south of ten degrees latitude north, in the Cameroons, and in French Equatorial Africa.

[6] Cf. L. Tauxier, *Le Noir du Yatenga,* Paris, 1917, p. 344.
[7] Cf. also L. Marc, *Le Pays Mossi,* Paris, 1909, Chap. VIII.
[8] *Ibid.,* p. 145.

After having made this summary description of the peoples who occupy French West Africa, we shall discuss the methods by which the French established control over this territory.

2. *The Occupation of Senegal*

Most of this vast territory was added to the French empire within the short space of twenty years. The headquarters of the conquest were located in two tiny island towns in Senegal, Gorée, which is a jewelled fortress lying off the Cap Vert (now the seat of the city of Dakar), and Saint Louis, named after the Ile Saint Louis lying sheltered in the Seine, which is located a few miles from the mouth of the Senegal river.

Intrepid explorers from the Mediterranean countries touched the protruding hump of Africa during the thirteenth and fourteenth centuries. As early as 1364, French sailors from Dieppe are supposed to have dropped anchor off Rufisque. The sixteenth century saw the whole of West Africa the scene of a lively slave trade with Europe. In 1659, an agent of the *Compagnie normande,* one of the monopolistic chartered companies created by the old régime, established what became the city of St. Louis. A few years later, in 1677, one of Louis Quatorze's admirals drove the Dutch out of the island of Gorée; while agents of another chartered company, the *Compagnie du Sénégal,* occupied towns along the coast, such as Rufisque and Joal, after signing treaties with the chiefs.[9]

A few years later, André Brue, a celebrated director of the *Compagnie du Sénégal,* made a voyage up the Senegal river, establishing trading posts along the shores.[10]

During the wars of the Revolution and Napoleon, the British occupied the French posts in Senegal, but retroceded both Gorée and Saint Louis to the French in 1817.

The territory lying back of these "comptoirs" was inhabited by a large number of native states similar in organization to the states found along the Gulf of Benin. One of the oldest and most important of these states was the state of Djolof, inhabited by the Ouolof people and headed by a king called the Bour. For a time, this state had certain suzerain rights over the native kingdoms of Oualo, Cayor, Baol, Sine, and Saloum.

At the end of the eighteenth century, the people of Cayor revolted against the Bour of Djolof and became an independent kingdom under a

[9] Cf. J. Machat, *Documents sur les Établissements Française de l'Afrique Occidentale au XVIII Siècle,* Paris, 1906.

[10] Cf. E. F. Berlioux, *André Brue ou l'Origine de la Colonie Française du Sénégal,* Paris, 1874. Cf. also Cultru, *Histoire du Sénégal du XVe Siècle à 1870,* Paris, 1910, Chaps. I-VII.

leader called the Damel of Cayor, who came to rule the territory between Saint Louis and Deander.[11]

From ancient times, the chiefs of these states lying along the coast and the banks of the Senegal river followed the custom of imposing heavy duties or "coutumes" upon traders.[12] In many cases, natives destroyed the property of European traders and even took some of them into captivity. For a hundred and fifty years, the French Government followed a policy of negotiating treaties with these various chiefs, granting freedom of navigation and trade on the river and in other parts of Senegal and limiting the size of the duties which they exacted. The French did not for many years attempt to interfere in the internal administration of the tribes. Some of the earliest treaties, made in 1785, were with the Moors. Between this date and 1853, ten treaties were made in which the Moors agreed to protect French commerce.[13] As soon as a treaty was made, the Moors proceeded to break it. A military expedition followed, as a result of which a new treaty would be imposed.

Following the retrocession of these posts in Senegal by the English at the close of the Napoleonic wars, the government of the Restoration, anxious to revive the drooping economic condition of France, outlined an ambitious project to colonize Senegal with large plantations of cotton, indigo, and other products, along the lines which Van den Bosch was developing in the Dutch East Indies. To undertake this enterprise, the government despatched to Senegal as governor, Colonel Schmaltz, an officer who had lived a number of years in the Dutch colonies in the Orient. Several companies, such as the *Société Coloniale Philanthropique,* sent out two hundred colonists to the peninsula of Cap Vert, but the climate, the lack of labor, and the unkindly soil made the project a dismal failure. Moreover, the available land was already occupied by the natives.[14]

Other attempts to establish plantations along the banks of the Senegal river were made. In order to obtain land for its plantations, the government made treaties with the chiefs of Oualo, who granted it "perpetual possession of all the places where it may wish to establish itself in the kingdom of Oualo" in return for the payment of "coutumes" amounting to about ten thousand francs a year.[15] The government established experimental farms and gardens under the charge of scientific experts from France; and premiums were given to planters. In 1824, Oualo was divided

[11] Cf. Vol. I, p. 907. [12] Cf. p. for the same practice in Nigeria.
[13] G. Poulet, *Les Maures de l'Afrique Occidentale Française,* Paris, 1904, p. 152.
[14] C. Faure, *Histoire de la Presqu'ile du Cap Vert et des Origines de Dakar,* Paris, 1914, p. 48.
[15] G. Hardy, *La mise en valeur du Sénégal de 1817 à 1854,* Paris, 1921, p. 7.

into four cantons, each with a head appointed by the Governor, who attempted to settle disputes between the concessionaires and the natives. But the Traza, a branch of the Moor people, from across the right bank of the Senegal river, claimed that the Ouolof people did not own the land which the French had leased, and they pillaged the plantations and made life miserable for the emigrants. Difficulties also arose over labor. For a time, the Minister considered negotiating with the Spanish Government for the importation of labor from the Canary Islands. While he did not carry out this project, he did send to Senegal about one hundred and forty colored prisoners from Martinique. Native prisoners were also put to work. The administration obliged other natives, held for civil liabilities,[16] to secure their eventual freedom by signing a contract for not more than fourteen years, agreeing to work on these plantations.[17] An attempt was also made to recruit free labor, but with little success. Meanwhile, the Traza continued their raids; according to French writers, they were supplied with guns by British traders who, anchored off the port of Portendic, wished to divert the trade in gum from French hands. Effecting an alliance with the kingdom of Oualo, the Moors came to dominate both sides of the Senegal river and for a time threatened the entire position of France in Senegal. After considerable fighting, the French reduced both tribes and obliged them to sign treaties of peace in 1835.[18] In these military operations, most of the plantations were de-

[16] "Provenant de saisies ou de confiscations."

[17] French merchants suggested that they furnish the government with slaves whom they had received before the abolition of slavery, in payment for goods from different chiefs. These slaves should work for the government for fourteen years and then receive their freedom. But the French Government refused to approve of the project. Hardy, *cited,* p. 147.

[18] Hardy, *cited,* p. 321.

In the treaty of September 3, 1783 (E. Hertslet, *The Map of Africa by Treaty,* London, 1896, p. 539), ceding Senegal to France, Great Britain retained the right of carrying on the gum trade from the mouth of the River St. John to Portendic Bay. Elsewhere, the Colonial Pact prevailed; i.e., the government reserved all trade to French merchants.

In the war which took place between France and the Moors in 1834-35, the French Government established a blockade which destroyed the trade of the British merchants engaged in the gum trade, whom the French accused of supplying arms to the Moors. After fruitless negotiations, the British and French Governments referred this matter to the arbitration of the king of Prussia. In an award made in 1843, the king declared that France was liable to damages to which the claimants "would not have been exposed if the said Government, when it sent to the Governor of Senegal the order to establish the Blockade, had simultaneously notified that measure to the British Government. . . ." *Ibid.,* pp. 542-543. But notwithstanding the omission of the notification of the blockade, the French Government was not liable for "losses incurred in consequence of commercial enterprises in which the Claimants engaged after they had, through other channels, positive knowledge of the formation of the Blockade of Portendic," etc. *Ibid.,* p. 543.

In a treaty of 1857, the British Government gave up its rights in the Bay of Portendic in return for the French factory at Albreda, on the Gambia river.

stroyed, and the French attempt to colonize West Africa, as the British seventy years later colonized East Africa, came to an unsuccessful end, at a loss of a million francs. Frenchmen now turned to the "commerce de la gomme,"—a kind of rosin similar to kopal.

Following the subjugation of the tribes along the lower Senegal, trouble arose in the Futa district along the Upper River. French convoys bringing gum out of the country, were attacked by caravans of Peuls and Moors—in what was called the Futa War. After further operations, the French signed a new set of peace treaties with the kinglets of Futa and of Galam between 1838 and 1842. Having finished this diplomatic task, the French were obliged to turn their attention again to the Traza—the leading Moorish state which had no intention of living up to its promises. By this time, local officials were tired of negotiating with these tribes as if they were European states. The tribes did not, apparently, understand the obligations which they contracted, probably per-force, nor did they attempt to live up to them. The local officials therefore wished to annex the territory and administer it directly. Nevertheless the home government instructed them to continue the policy of alliances. Revolts again broke out, and, as a French writer says, "la pacification à l'amiable était toujours à récommencer."[19]

3. *Cap Vert*

The French first acquired a "legal" hold upon the coast between Saint Louis and Dakar in a treaty of 1765 between the Damel of Cayor and His Very Christian Majesty, the King of France, in which the Damel ceded in perpetuity the land along the coast including Cap Vert. Within this area, he promised to exact no taxes or "coutumes." The French King agreed to pay the Damel one hundred and eighty bars annually, of which one-third should be in iron, and two-thirds in merchandise.[20]

Despite the signing of this treaty, no steps were taken to occupy Cap Vert. For forty years, the relations between Gorée and the mainland were those of two independent countries. In the meanwhile, the Lebou tribe inhabiting the Cap Vert tired of the exactions of their over-lord, the Damel. In 1795, they revolted and founded a republic governed by a council of chiefs, and an elected Serigne or head chief. Consequently, the Lebous did not recognize the treaty in which the Damel ceded Cap Vert to the French. When the French returned to Gorée at the close of the

Cf. Convention between Great Britain and France relative to Portendic and Albreda, March 7, 1857, Hertslet, *cited,* p. 544.

[19] Hardy, *cited,* p. 323.

[20] The text of this treaty is printed in Faure, *cited,* p. 6.

Napoleonic War, the Lebous obliged them to pay fees for the use of water and other privileges on the peninsula which the Damel had ceded in the treaty of 1765. At this time, the Governor of Senegal, Baron Roger, did not claim these rights. He declared: ". . . The peninsula of Cap Vert does not belong in fact to the King of France. . . . These treaties having remained unenforced, no longer even being known to the chiefs of the country and not having, moreover, been established in return for a reasonably sufficient price, it would be a virtual usurpation to take possession of the land." [21] Frenchmen wishing to settle on the peninsula should make agreements with the chiefs.

Difficulties now arose between the French inhabitants of Gorée and the Lebous over shipwrecks, which frequently occurred on the rocks off the peninsula. Regarding the shipwrecked vessels as their property, natives pillaged the cargo and made prisoners of the sailors—a practice which had been forbidden in the treaty of 1765. After negotiations, the French signed a new treaty in 1826 with the chiefs of Dakar in which they promised to inform the commandant of Gorée whenever a shipwreck occurred, and to respect the lives and property on board such vessels. Destitute passengers would be cared for by the chiefs in return for compensation.[22]

Notwithstanding these promises, the chiefs proved unable to restrain their subjects from pillaging. Difficulties also arose over the presence of a marabout [23] at Dakar who was preaching holy war, as a result of which the natives of Dakar attempted to stop the Europeans from getting water at their wells. Following further negotiations the chiefs agreed to a new treaty in 1830, which stipulated that the inhabitants of Gorée no longer needed to pay any kind of tax for obtaining beef, fire wood, etc., at Dakar, nor certain anchorage fees, but that they should continue to pay for water, stone, and sand for building purposes.[24]

A third treaty was signed in 1832 in which the French purchased land on the peninsula for a cemetery for a sum of three hundred francs.

Despite these treaties providing for the protection of shipwrecked vessels and crews, the natives of the peninsula of Cap Vert continued their pillaging, notably of an American ship, the *Charlotte,* and of a Greek ship, the *Holy Trinity.*

Further difficulties arose over the charges which the Lebous imposed for water and sand, which led Governor Protet to attempt to make a new treaty—a suggestion which the natives declined to accept. These exactions continued despite the provisions of the treaty of 1830 (which the

[21] Faure, *cited,* p. 12. [22] For text, cf. *ibid.,* p. 57. [23] A Moslem priest.
[24] Text of the Treaty of April 22, 1820, *ibid.,* p. 66.

French Government at home had not ratified). Consequently Governor Protet resolved that the inhabitants of Gorée could be relieved of these aggravating visitations only by the occupation of the peninsula. Its strategic military position and its possibilities as a commercial outlet for a vast hinterland strengthened this desire. In 1852, Governor Protet attempted without success to make another treaty with the natives. In 1855, a distinguished engineer, an official in the government, Pinet-Laprade, drew plans for a fort at Dakar and for a railway between Saint Louis and Gorée. The construction of the fort the French Minister of Colonies authorized in 1857. Upon the completion of the fort, the commandant of Gorée obliged the natives to redeem the annual "coutumes" in favor of a lump sum. He then ran up the French flag. At this time—June, 1859—a notice in the *Moniteur du Sénégal* declared: "Our domination over the peninsula of Dakar and over its inhabitants is now really established, and under rational conditions." [25] Forty-two years after the retrocession of the island of Gorée by England, the French occupied the mainland.

In 1850, the French establishments in Senegal faced financial bankruptcy, a condition which reflected the commercial situation. Many of the French merchants were despondent because the abolition of slavery in 1848 had deprived them of a labor supply which they had previously rented from the chiefs. An interministerial commission in Paris, appointed to inquire into the situation, was obliged to decide whether to withdraw altogether from Senegal, or firmly to establish French authority. The committee finally decided in favor of the latter alternative. The application of this "forward" policy came to be confided to one of the great figures in French colonial history, General Faidherbe, who became Governor in 1854. The policy of "pacification without conquest, development without territorial occupation" now came to an end.

4. *General Faidherbe*

While the French were having their difficulties with the Lebou people, traders were experiencing similar trials with the Moors, who paid little attention to early treaties. In one of the punitive expeditions despatched against these people to enforce these obligations, Moctar Sidi, a Moor chief, was captured and interned in the Gaboon. But the Under-Secretary of State for the Colonies ordered his release, declaring: "The arrest of Moctar Sidi, under circumstances which I regard as a violation of international law, has inspired in the populations of the Futa hatred and mistrust to which part of the aggressions which they have since so frequently launched against the traders and ships of Senegal may be attributed.

[25] Faure, *cited*, p. 124.

The Republic governs only by principles of honor and of loyalty. It must show that it does not approve acts of this nature and that it repudiates responsibility for them. This will be at the same time good policy, because we will thus testify to the natives that the government intends to practice toward them the principles of justice and of loyalty which it asks them to respect in their relations with it." But as a French writer points out, these delicate sentiments aroused only a slight echo in the hearts of the chiefs who once again embarked on their campaigns.[26]

In 1854, the French Minister of Colonies authorized the Governor to bring about the suppression of the "escales" and the exactions upon French trade. Likewise, the Minister authorized the Governor to remove the control which the Moors had imposed upon the black population on the left bank of the river. But the Moorish leaders had other ideas on the subject. Taking the initiative, they served notice on the French to evacuate the islands below Saint Louis. At this fighting commenced, and in haughty tones the leader of the Moors told Faidherbe that instead of suppressing the "escales" and tolls, he would increase them. He also demanded the immediate destruction of the French forts, and asked that before engaging in any negotiations, Governor Faidherbe should be recalled "ignominiously" to France.[27]

Following his military operations against the Moors, ending in their defeat, Faidherbe negotiated a number of new treaties in 1858,[28] which provided that the chiefs of the three Moorish nations could levy an export duty of three per cent on the gums exported from the right bank of the Senegal river. In order to collect these duties, the Moorish chiefs restricted trade to a limited number of trading posts on the river. This system did not, however, satisfy the French merchants who demanded complete freedom of commerce—a demand which the government granted in a decree of March 22, 1880, after making a new set of treaties with the Moorish chiefs establishing free commerce and substituting for the three per cent export duties, a fixed indemnity.[29] The total annual indemnity paid to these various chiefs as a result of these and later conventions was 37,175 francs. Under these treaties, the Moors accepted the protection of France. In return, the French promised not to interfere with their customs or their internal affairs—that is, with the Moslem courts. Crimes committed by French subjects would, however, be tried before French tribunals. No European could obtain a concession from the Moorish

[26] Hardy, *cited*, p. 327.
[27] Le Général Faidherbe, *Le Sénégal*, Paris, 1889, p. 137.
[28] Cf. De Clercq, *Recueil, cited*, Vol. 7, p. 388.
[29] Act additional of April 2, 1879. *Ibid.*, Vol. XII, p. 397, also cf. p. 556.

chiefs without the authorization of the French Government. The chiefs of the Traza and Brackna nations were authorized to collect rent from natives who lived on the left bank of the river when they crossed to cultivate land on the right bank.[30]

Thus, the French gradually abolished the duties which these chiefs imposed on commerce, in favor of fixed annual payments. The Mauretania budget for 1926 appropriates 101,060 francs for the payment of these Moorish chiefs. It likewise appropriates more than 48,000 francs for the salaries of native cadis.[31]

In 1860, Toro was annexed to the colony, which did not, however, affect the autonomy of the people except that hereafter the Governor named the chiefs. By means of these and other treaties, Faidherbe broke up the union of various chiefs in the interior of Senegal and abolished the exactions which they had imposed upon European commerce. These treaties virtually established a French protectorate over the hinterland between Dakar and Gorée.

The territory between Cap Vert and Gambia which was dominated by native states, such as Baol, Sine, and Saloum, still remained independent. Following police operations among these states, Faidherbe made treaties with the kings of Baol, of Saloum, and of Sine fixing at three per cent ad valorem the export duties which they might charge, and authorizing French merchants to purchase land and to build stone houses within these kingdoms.[32]

By 1861, the only native state in Senegal which the French had not placed under control was the state of Cayor, which extended between Saint Louis and Gorée. In 1859, the Damel had conceded the French the right of constructing a telegraphic line between Saint Louis and Dakar. His successor declined to execute the treaty.[33]

But following military operations, the French obliged the Damel to sign a treaty granting these and other rights—a treaty which was soon violated. Meanwhile, a dispute as to the succession of the Damel had

[30] Poulet, *cited,* pp. 152 ff.

[31] *Budget Local de la Colonie de la Mauritanie,* 1926, pp. 25 and 27.

[32] Faidherbe's philosophy is illustrated by the following passage: "Civilization only makes great progress in the world as a result of the formation of vast empires by conquerors; these last are, while living, veritable scourges, but soon, in the midst of the ruins which they have accumulated, are manifested happy consequences of their passage on the earth. They have created between men facilities of communication which did not exist in the state of division (*fractionnement*) in which savage countries were found facilities thanks to which material and intellectual exchange become possible to the great profit of progress." Cf. Faidherbe, *cited,* p. 158.

[33] Faidherbe, *cited,* p. 258. He was also accused of selling his subjects as slaves to the Moors.

occurred, which led the French to recognize Lat-Dior as Damel, in a treaty of January 12, 1871.[34] He submitted to French protection until 1882, when, becoming aggressive, he opposed the construction of the railway between Dakar and Saint Louis despite the fact that he had ceded land to the French for this purpose in a treaty of September 10, 1870.[35] At this, Lat-Dior was deposed. In an attempt to regain his position, Lat-Dior was killed in 1886. His death terminated the Era of the Damels. Thenceforth the Cayor was divided into provinces administered by chiefs named by the Governor. At this time the French Government imposed treaties upon ten other tribes in Senegal. The effect of these treaties was to place all of these chiefs under the suzerainty and protection of France. They promised to embark upon wars only with the preliminary consent of the French authority.[36] In an additional act of the same date, Lat-Dior promised to furnish workmen to the government who would be paid 75 centimes a day if rice were also furnished. If not, 1.25 francs a day, which in gold is three times what natives receive for the same work to-day.[37] The French Government was to be sole judge of disputes between the tribe and its neighbors. The chiefs would continue to judge disputes between natives according to native law, but mixed cases would be tried by the French authority. The French alone were guaranteed the right to trade in the country. The chiefs promised to maintain the ways of communication, to favor the development of agriculture, and to facilitate the purchase of land. The government could undertake the construction of railways, telegraph lines, and forts. In the treaty of August 28, 1883 (art. 5), the Damel of Cayor agreed to furnish laborers for railway construction who would receive a wage and ration fixed by the Governor. The treaty of February 2, 1883, with N'diambour provided that "nothing is changed in the powers, customs, and institutions of the country; the actual chiefs reserve their former rights and privileges. The Bour of N'diambour promises to administer his country with justice. . . ."

In accomplishing the occupation of Senegal the French negotiated nearly 130 treaties with native chiefs between 1785 and 1891.[38]

From the administrative standpoint, the colony of Senegal rests upon

[34] De Clercq, *Recueil des Traités de la France*, Vol. 12, p. 481, footnote.
[35] *Ibid.*, Vol. XII, p. 481.
[36] The texts of these treaties have been compiled in E. Rouard de Card, *Les Traités de Protectorat conclus par la France en Afrique*, 1870-1895, Paris, 1897, Chap. X.
[37] Cf. Vol. II, p. 32.
[38] The list is given in A. Sabatie, *Le Sénégal, sa Conquête & son Organisation*, 1364-1925, Saint Louis, Senegal, pp. 333, 347. Faidherbe made about seventy of these treaties. Cf. M. Olivier, *Le Sénégal*, Paris, 1907, p. 32.

the *ordonnance du Roi* of September 7, 1840,[39] establishing a governor, a council of administration, a general council of ten members, eight chosen among the European and native proprietors or merchants in equal numbers and two chosen among the retail merchants of Saint Louis and a local council, of five elected members for Gorée. From Gorée and Saint Louis as a base the Governor gradually placed the tribes in the interior of Senegal under the protection of France by means of treaties. Meanwhile he organized an administration over the towns which Frenchmen had occupied. In 1859 these areas were divided into three arrondissements, of Saint Louis, Bakel and Gorée, each under a Commandant. In 1872 the two communes of Saint Louis and Gorée were created, followed by Rufisque in 1880. A General Council composed of representatives from these communes was created in 1879.[40] In 1882 the Senegal government attempted to extend its direct authority throughout the whole of Senegal when it divided the territory into seven different "cercles." But, according to a French author, "the attempt of assimilation by this organization did not give the results which had been expected. Territory inhabited by natives of races, of religion and of customs so different from ours, placed directly under the régime of Direct Administration, had to be successively reestablished as a simple protected territory." [41] An arrêté of January 15, 1890, disannexed the interior beyond the coastal strip, and from that time down until 1920 Senegal has been divided into the Territory under Direct Administration which included the four communes of Dakar, Gorée, Rufisque and Saint Louis together with their suburbs or *bainlieues,* so-called Mixed Communes, and *escales* or trading posts, and a strip of land a kilometre wide on either side of the Dakar-Saint Louis railway, together with certain lands along the river and the sea.[42] The remainder of Senegal, acquired through treaties with various chiefs, was called and administered as a protectorate. This same distinction between annexed and protected territory was for a time followed in Guinea, the Ivory Coast and Dahomey.

5. *The Sudan*

Faidherbe realized that Senegal was the key to a vast continent, and he dreamed of carrying the Flag into the Sudan—a vast unknown which

[39] *Bulletin des Lois du Royaume de France* (hereafter cited as *Bulletin des Lois*), Vol. 21, 1840, p. 671.

[40] Cf. p. 967.

[41] Sabatie, *Le Sénégal, cited,* p. 352.

[42] Cf. Decree of February 13, 1904, P. Dareste, *Reuceil de Législation, de Doctrine & de Jurisprudence* (hereafter cited as *Recueil*), 1904, p. 146.

challenged the curiosity of explorers [43]—and of establishing a line of communications between the Niger River and the Senegal.

The work which he started was carried on by Briere de Lisle, Borgnis Desbordes, Colonel Gallieni and Colonel Archinard. Four native fanatical rulers called *almanys* obstructed the French invasion. The first was El Hadj Omar, the founder of a Toucouleur empire who, hard pressed by the French, and after many years' resistance, committed suicide in 1864. His son, Ahmadou, defied the French until his escape from the territory in 1893. The French appointed his brother as king under a French resident at Massina; but in 1902 the king was retired and direct administration installed. A French writer says, "The Toucouleur chiefs, installed as provincial chiefs by El Hadj and his successors, were suppressed by extinction: at the death of each of them, the cantons and the villages which they commanded were returned to their original chiefs."[44]

About 1879, another fanatic, Samory, founded a Mandingo empire at Oussaoulou. Taking the title of Almany, he came to dominate all of the territory in the vicinity stretching from Liberia to the headwaters of the Niger. While he claimed to be a Moslem, he did not know Arab nor the Koran, and he devoted himself chiefly to the organization of a remarkably effective army. Following two years of fighting, Samory accepted French protection in a treaty of 1887, which defined the limits between the French Sudan and the Almany's territory, and which provided for freedom of commerce between the two zones.[45]

Samory nevertheless continued to send his cavalry into French territory. After making fruitless representations, Colonel Archinard unsuccessfully attempted to bring him to submission. Samory continued to pillage until he was finally captured by the French in 1898. He was deported to the Gaboon where he died in 1900.

Still another marabout, whose name was Mamadu Lamine, and who had received his inspiration from a trip to Mecca and to Constantinople, now attempted to establish a Moslem empire and vanquish the French in a Holy War in the Upper Senegal. He was brought to terms in 1887 after two years of fighting. In 1883 the French established a station at Bamako.

[43] The search for the Niger, and French rivalry with the English, or the journey of René Caillé to Timbuktu, in 1828, cannot be described here.

[44] M. Delafosse, *cited,* Vol. II, p. 338. J. L. Monod, *Histoire de l'Afrique Occidentale Française,* Paris, 1926, p. 244.

[45] For text, cf. De Card, *cited,* p. 230.

6. *The Volta and Guinea*

By means either of treaties or of conquest, the French gradually occupied the interior of Africa as far as Timbuktu, finally occupied in 1894. Following the Congress of Berlin, held in 1885, a scramble for territory took place between the powers. The leading French explorer was Lieutenant Binger, who, unaccompanied by white companions, left Bamako in the French Sudan and crossed over to Sikasso, down to the republic of Kong, in what is now French Guinea, and then retraced his steps northward until he came to the Mossi kingdom of Ouagadougou.[46] He then returned to Kong and finally reached the coast at Grand Bassam. In this trip, he negotiated a number of treaties with native chiefs. He was followed by French officers who imposed a French protectorate upon the Ouagadougou empire in 1897, which is now part of the colony of the Upper Volta.

Below Senegal, the west coast of Africa is marked by a large number of tiny rivers emptying into the sea—an area which the French called "Rivières du Sud." As early as the fourteenth century, Normandy sailors traded along this coast which for several hundred years was the center of the slave industry. Following the Napoleonic Wars it was frequented by traders from Gorée who received protection from a hovering French cruiser. About 1825, the Governor of Sierra Leone negotiated a series of treaties with the chiefs of the "Rivières du Sud," which would have placed all the territory between Sierra Leone and Gambia under British control. But under the influence of the "Little England School," the British Government declined to ratify the agreements.[47] Taking advantage of this interlude, France now proceeded to make treaties in 1857, 1859, 1865, and 1866, with the chiefs for the occupation of the territory. Some chiefs accepted the suzerainty of France and others guaranteed the right to trade, subject to the payment by each trader of annual sums, such as fifty gourds in merchandise.[48]

This set of treaties was followed by another in 1878-80 in which the chiefs promised not to cede any part of their country without the consent of the French Governor, in return for which France agreed to pay them

[46] His story is told in Le Capitaine Binger, *Du Niger au Golfe de Guinée, par le Pays de Kong et le Mossi,* Paris, 1892, two volumes.

[47] Cf. Arcin, *Histoire de la Guinée Française,* Paris, 1911, p. 292; also J. Chailley's introductory remarks, p. viii.

[48] For the texts of these agreements, cf. *ibid.,* pp. 336 ff.

an annual indemnity.[49] The French authority would decide cases involving French subjects. One treaty provided that only French schools could be established.[50]

Having acquired this foothold on the coast, the French now turned their attention to the hinterland which was marked by a *massif* called Futa-Djallon, the source of many rivers of West Africa, including the Niger. This territory for a time had been conquered by another Moslem marabout, Karamoko Alfa, who proclaimed himself Almany of Futa. As a result of dissension, this state was later divided between two Almanys who directed a kind of Futa confederation composed of a number of diwals or provinces.[51] The federation accepted the protection of France in a convention of July 5, 1881. It agreed not to impose any exactions upon French commerce.[52]

In return French merchants were obliged to pay the Almany a fixed duty of a thousand francs for each trading house and five hundred francs in merchandise to the local chief.[53] The French government also agreed to pay certain rents to the Almanys, but these provisions were suppressed by a supplementary convention of March 3, 1888. Shortly afterward, civil war between the two leading families reduced the country to anarchy. Consequently, the French sent troops into the country and in a new treaty of February 6, 1897, established a definite protectorate. In this treaty, the French government promised "to respect the present constitution of Futa-Djallon" under the control of a French resident who was established at Timbo. The chiefs could nominate a successor to the present Almany subject to the approval of the Governor of French Guinea. The same procedure would be followed in the case of the chiefs. It was agreed that further conventions would regulate conditions under which land concessions would be made to French citizens and under which taxes would be imposed. Part of the taxes would be reserved to the Almanys and to the chiefs of the diwals.[54] It does not appear that such conventions have been made.

While for a time France observed these treaties, disorder continued to such an extent that she felt obliged to establish more direct control. A number of chiefs who led a revolt in the Futa were executed in 1900.

[49] Texts, *ibid.*, pp. 371 ff.

[50] Article 7, Treaty of June 14, 1883, with the King of Bramaya, De Card, *cited*, p. 202.

[51] Cf. Arcin, *cited*, Chap. II, Part I.

[52] The preamble of the first treaty said: "The Futa-Djallon, bound by a long and old friendship to France, knowing that the French people do not attempt to extend their possessions in Africa, but merely to establish friendly relations to further commercial exchange; knowing that for a long time the French have never mixed in the internal affairs of their allies and that they will respect in an absolute fashion the laws, customs, manners, and religion of others."

[53] De Card, *cited*, p. 205.

[54] Arcin, *cited*, p. 634.

Desultory fighting of one kind or another, nevertheless, continued until 1906. During this time, the administration gradually reduced the former domain of the Almany, breaking it up into smaller areas. The whole of French Guinea is now divided into cantons, each of which has a chief appointed by the government.[55]

7. *The Ivory Coast*

The Ivory Coast, the territory lying between the Gold Coast and Liberia, has a similar history. While along the heavily forested coast the natives were organized into dozens of little tribes, several large native states dominated the interior. French traders and missionaries settled along this Coast as early as the seventeenth century. In the nineteenth century, English trading houses appeared, at a time when part of the territory as far as Lahou, or Bingerville, was under the king of the Ashantis.[56] French traders who were also present were protected by a French cruiser. In 1842, the commander of this vessel made a number of treaties with the native kingdoms,[57] following which the French established trading posts and garrisons at Assiné, Grand Bassam, and Dabu, which were governed by a resident responsible to Senegal. During the Franco-German War of 1870, the garrisons were withdrawn. But the government continued to pay a subvention to a French merchant who, acting as resident, maintained a small police and paid the "coutumes" to the native chiefs. Later on, he reported to the French establishments in the Gaboon. In 1887, Lieutenant Binger made his famous trip across from the Sudan, finally arriving at the coast in 1889, bringing with him four protectorate treaties. Bingerville takes its name after the explorer. In 1887, M. Treich-Laplène negotiated five treaties with tribes which completed the task of linking the Upper Niger with the Ivory Coast.[58] In these treaties, the chiefs undertook not to conclude any conventions with third states except with the previous approval of France. The treaties reserved to French subjects the exclusive right of trading and they agreed to maintain religious liberty. In return, the French government promised to pay an annual indemnity to the kings.[59] In following years, the position of the French in the interior was seriously menaced by the famous leader,

[55] Cf. *Budget du Service Local de la Guinée Française,* 1926, p. 75.
[56] Cf. Vol. I, p. 788.
[57] De Clercq, *cited,* Vol. IV, p. 615; Vol. V, p. 162; Vol. V, pp. 100 and 163; Vol. XV, p. 342.
[58] The texts found in De Card, *cited,* p. 190.
[59] In Article 5 of the treaty of January 10, 1889, with the chief of Kong, the French undertook "not to interfere with the exercise of the Moslem religion." For a similar provision in Northern Nigeria, cf. Vol. I, p. 729.

Samory, and by native revolts. In 1896, Administrator Clozel and others were besieged for sixty-three days at Assikasso.[60] Between 1902 and 1906, French troops met with violent resistance from the Baoulé people. For a moment, the capital, Bingerville, was even threatened by a native invasion. When M. Angoulvant became governor in 1908, only a small strip along the coast had been subdued.[61] At this time, "commerce was nearly nil, and there was no security." The record of the past fifteen years had not, therefore, been particularly brilliant. In the opinion of the new Governor, this was because the French administration had followed the mistaken policy of pacific occupation, and had allowed the natives in the interior to acquire arms and ammunition. In 1908, the government adopted a "méthode rigoreuse," and military expeditions scoured the country until it was finally "pacified" in 1915. Chiefs who had fomented revolt were deported; the natives were disarmed; others were interned; war fines were imposed on various tribes amounting to more than 700,000 francs between 1910 and 1912.[62] In order to keep the natives under control, the government regrouped native villages. Thus the Akoués, who had been divided into two hundred and forty-seven camps, were brought together in seventeen different villages "facilement accessible," while the Ngbans who formerly were divided into three hundred and twelve villages were concentrated into forty-seven.[63]

8. *Dahomey*

Lying snugly between Togo and British Nigeria, Dahomey was the final territory to come under French control. In the sixteenth century the kingdom of Abomey came into existence, and spent the next two centuries in almost constant warfare with the Yoruba kingdom to the south. The King was also obliged to contend with local enemies, the Kings of Porto Novo and of Grand Popo, not to mention others.[64] Many are the tales which have been told of human sacrifice and slave trading to which these kingdoms were addicted. In a treaty made in 1868, France secured the port of Cotonou and established a protectorate over Porto Novo. This port and Cotonou were occupied in 1885.

After a struggle, the French obliged the King of Abomey, in a treaty of 1890, to respect the French protectorate over Porto Novo.[65] But the King, Behanzin, did not respect the agreement; and after correspondence,

[60] Cf. F. J. Clozel, *Dix Ans à la Côte d'Ivoire,* Paris, 1906, Chap. II.

[61] Cf. the map, G. Angoulvant, *La Pacification de la Côte d'Ivoire,* Paris, 1916, p. 14.

[62] *Ibid.,* p. 243.

[63] *Ibid.,* p. 246.

[64] It is believed that the Kings of Porto Novo and of Abhomey originally belonged to the same family of Allada, the members of which quarreled.

[65] Convention of October 3, 1890, De Clercq, *cited,* Vol. XVIII, p. 599.

in which the King said: "If you wish war, I am ready," the French Government sent to Dahomey Colonel Dodds who after a hot campaign drove the King out of the country. In a proclamation issued in December, 1892, Colonel Dodds, now promoted to general, banished Behanzin and placed the kingdom of Dahomey under the exclusive protection of France, except for certain territories which were annexed.[66] Behanzin was deported to Martinique and later to Algeria where he died in 1906, while his ministers and a number of mulatto advisers were sent to the Gaboon.

General Dodds now set about to dismember the kingdom of Abomey. In 1894 he created two new kingdoms, having their capitals at Abomey and Allada. He then recognized Ago-li Agbo as King of Abomey, with whom he made a treaty definitely establishing a protectorate. The King promised to suppress slave traffic and human sacrifice. Mixed cases would be tried by the French vice-resident; commerce would be free; no concession of land could be made without the authorization of the French Government; France could establish public works; French schools could be opened in the population centers; the King would favor their establishment and "use his influence to propagate the French language. . . ." [67] The French Government likewise established a protectorate over the kingdom of Allada. Meanwhile King Tofa of Porto Novo continued to accept loyally the French protection accepted in 1882.

While the French maintained Ago-li Agbo as King of Ahomey, the area of which had been reduced by half, it deprived him of his former revenue, and did not pay him the annual sum of ten thousand francs which they had promised him. The King was nevertheless obliged to maintain a royal following; and when funds were not forthcoming, his followers made trouble. The French took advantage of these difficulties in 1900 [68] to deport the King to the Gaboon and to divide the kingdom into nine cantons, directly under the authority of the Resident of Abomey. At the death of the King of Porto Novo in 1913 his kingdom suffered a similar fate. The only recognition accorded to the memory of these kingdoms takes the form of pensions. Eighteen thousand francs is paid to the son of Behanzin, thirty-six hundred to Ago-li Agbo, and thirty thousand to the paramount Chief, Houdji.[69]

[66] De Card, *cited,* p. 100; F. Francois, *Notre Colonie du Dahomey,* Paris, 1906, Chap. I. Also J. Fonssagrives, *Notice sur Le Dahomey,* Paris, 1900. Chaps. III and IV.

[67] Text in De Card, *cited,* p. 188.

[68] *Afrique Française, Bulletin Mensuel du Comité de L'Afrique Française et du Comité du Maroc* (hereafter cited as *Afrique Française*), 1900, p. 181. He was later allowed to return to Dahomey as a private citizen where he occupied a farm. *Ibid.,* 1910, p. 345.

[69] *Budget du Service Locale de la Colonie du Dahomey,* 1926, p. 17.

A number of revolts occurred in Dahomey during the World War, and a state of siege was declared in Porto Novo in 1922.[70]

9. *Tibesti*

Between 1906 and 1914, the French attempted to reduce to submission the ferocious Teda people of Tibesti [71] in territory once claimed by the Turks who intermittently committed depredations upon the sedentary populations of Air, Damerghu, Fachi, and Kouar. During the World War, the menace of the Senussi and other considerations obliged the French troops to evacuate Tibesti. In reoccupying the territory in 1919, the French followed a new policy. Instead of securing the submission of village after village, as they had previously done, they determined that it was best to win over the most influential chiefs, "those having real authority over the tribes." [72]

In 1920, the Derde, or chief, of Tibesti accepted in the name of the whole country the terms of submission offered him by the French military authorities. He agreed to stop raiding into French territory, and to restore all French arms in his possession, and captives taken in French territory. He would pay tribute to the French of two hundred sheep and two hundred goat skins the first year, and one hundred and fifty sheep and two hundred goat skins in the following years. In return, the French would consider the Derde Chaffai as the only chief of Tibesti, and he would command the country in "our name." The Derde's rival, Guetty, the French would remove, so that the Derde's authority would go unchallenged. French troops, it was agreed, would support the authority of the Derde wherever it is necessary.

Thus the French followed a policy of supporting the powers of one chief in order to reduce others. Having pacified the country, the French proceeded to reduce the privileges of their former allies who had assisted in the occupation.[73]

10. *An Empire Occupied*

Before the Franco-German War of 1870, the French Government made no concerted effort to establish its control over West or Equatorial Africa. From the year 1800, and even before, down to the advent of

[70] Cf. Vol. II, p. 17.

[71] While geographically, Tibesti falls in Equatorial Africa, it is actually administered as part of the Niger territory.

[72] Captain Rottier, "Étude sur le Tibesti," *Bulletin du Comité d'Études Historiques et Scientifiques,* 1922, p. 29.

[73] Captain Rottier says: "To bring pressure on the chiefs, the best means was to show them by tangible proofs that their interests were rather with us than against us."

Faidherbe in Senegal, French merchants attempted to trade in territories under the theoretical jurisdiction of native chiefs. In order to protect these merchants, French government officials negotiated, in good faith, a large number of treaties. But the chiefs who affixed their marks to these treaties did not understand, apparently, the obligations which they contained. Apparently many of them did not wish to protect the lives and property of Europeans. In most cases, the chiefs were not strong enough to make their subjects respect treaty rights nor to prevent European traders, aided by western liquor and firearms, from committing widespread abuses.

Unfortunately, no native historian has presented the native side of the case, and French histories do not give all the details which one finds in regard to British colonies, for example, in Claridge's *History of the Gold Coast*. Yet it seems clear that had the native societies in Senegal, as on the Gold Coast, presented an organization capable of adapting itself to the exigencies of western trade, their political independence would have been maintained.

But after a hundred and fifty years of patient negotiations, the French Government came to believe that the primitive people who occupied this territory could not possibly cope with the demands of the European capitalistic system. Neither the French nor the British Government felt that the resources of Africa should be locked up indefinitely from the outside world, parts of which were already becoming overcrowded, nor that it could prohibit European traders from leaving the homeland to enter this territory. Consequently, both of them came to take the position—and it is a remarkable tribute to their willingness to act fairly that they did not take this position until after a hundred and fifty years—that if anarchy was to be prevented in these territories, a more direct form of control had to be imposed.

Following the War of 1870, the French motive changed. Spurred by the defeat by Germany in 1871, the motive became political, and French military officers and government officials began to scour Africa with a view to linking up the Mediterranean with the Congo—a task in which, from the standpoint of exploration and adventure, they were brilliantly successful. As the result of their energies, a huge empire was acquired, extending across the Sahara Desert to Lake Chad and down into the heart of Africa.[74] Its very vastness has proved so top-heavy that the French have been obliged to install, in parts of this territory at least, an administrative system which led, as we shall see, to abuses. Had the French government been preceded in its occupation of Equatorial Africa by traders as it had been preceded

[74] Cf. Vol. II, p. 214.

in Senegal, the history of the former territory might have been different.

This change from commercial to political and nationalistic motives had another noticeable effect. While to-day the Stools of the Gold Coast, the Emirs of Kano and Sokoto, and the kings of Yoruba and Benin, in British Nigeria, live a flourishing existence, the Kings in French territory have been obliterated, and despite original treaties to the contrary, the power of the native authorities in French territory has been destroyed. The consequences of this policy are discussed in a later chapter.[75]

Some French scholars take the position that apart from a few kingdoms in Senegal and on the Ivory Coast, there was no organized society in West Africa at the arrival of the Europeans in the 19th century. Those kingdoms which did exist were, in the opinion of this school, without influence and deprived of real administrative power. They controlled only an infinitesimal proportion of the population in relation to the tribes living in complete anarchy. Some of them, such as the Nangana, Issala, Degari, Oule, Birifor, Lobi, and Bariba, are said not even to have lived in organized villages; while other groups, such as the Bobo and Senoufo, who included hundreds of thousands of individuals, lived in loose village organizations. To these examples from the Sudan, many other instances in the forest areas, such as among the Angi, the Balantes, the Diolas, could be added. Some French authorities therefore justify the establishment of direct administration in West Africa on the ground that there was a total absence of social organization, except for the family. But the fact remains that the French authorities did make agreements with a large number of chiefs in occupying Africa who no longer exist; and that in British Africa, the social organization of which is similar to that in other parts of the continent, tribal institutions have been preserved and their powers developed.

[75] Cf. Chap. 69.

CHAPTER 56

THE FEDERATION OF WEST AFRICA

HAVING acquired these vast areas in Africa by swift and spectacular methods, the French were confronted with the problem of organizing an administration which could maintain order and carry on development. Inasmuch as most of this territory was occupied from Senegal as a base, it was for a time being administered by the Governor of this, the oldest French colony in Africa. But between 1880 and 1890, each of the colonies of West Africa was gradually organized under a Governor who depended directly upon the Minister of the Marine and later upon the Minister of Colonies in Paris.

From the administrative standpoint, French colonial policy was originally marked by instability and over-centralization. The organization of these territories in West Africa constantly varied, sometimes to meet local conditions arising out of opposition by native tribes, and sometimes to meet administrative whims. This was particularly true of the hinterland of Senegal which has been passed back and forth from the colony of Sudan to the colony of the Haut-Sénégal-Niger to be divided up following the War into several other colonies, notable the colony of the Upper Volta—and the territory of the Niger. In thirty-seven years in the first half of the nineteenth century Senegal had thirty-four governors.[1] It seems that this tendency of instability has now about disappeared as far as personnel is concerned. The Governor of French Guinea has held this position since 1912, the Governors of the Niger, the Upper Volta, and of the Sudan have occupied their positions since 1919, while the Governor of Dahomey has held his post since 1920.

French as well as outside observers have frequently complained of the high degree of centralization which prevails in the French Government at home as well as abroad. All colonial legislation takes the form of a decree prepared by the Minister of Colonies and promulgated by the President of the Republic. While as a rule such decrees are drafted by the local government on the spot, the Minister of Colonies frequently consumes a long time in issuing decrees; and sometimes they are issued over the head of

[1] Hardy, *cited,* p. 356, and cf. Faidherbe, *cited,* p. 370.

local authorities.[2] Originally a tight control was similarly exercised over the local budget.

To overcome the difficulties of centralization and to remove economic barriers to labor recruiting,[3] the French Government has attempted to increase the initiative of local authorities and to convert the Colonial Office into an organ of control, as it is in the British Empire,[4] through grouping the various colonies into two federations: (1) Afrique Occidentale Française, commonly called "A. O. F.," and (2) Afrique Équatoriale Française, called "A. E. F.," the first of which will now be discussed.

The population of French West Africa is shown on the following page.

1. *Its Establishment*

The first attempt to group together the territories of West Africa came in a decree of June 16, 1895, when the Sudan, Guinea, and the Ivory Coast were all placed under the Governor of Senegal, who acted as Governor-General of the Federation of West Africa. The number of colonies in the Federation has grown until at the present time there are eight colonies in the Federation—Senegal, French Guinea, the Ivory Coast, Dahomey, Sudan, Mauretania, the Niger and the Upper Volta. In addition should be mentioned the District of Dakar.[5] The object of the Federation was to transfer part of the power over legislation and finance in the colonies from the Colonial Office to the Governor-General. This early experiment did not prove entirely successful because the federal government did not have a distinct personnel nor financial resources of its own. It was

[2] According to the Senatus-Consulte of May 3, 1854 (sec. 18), legislation for the French colonies except in the Antilles and Reunion, takes the form of a "simple" decree. Neither the French Parliament nor the Council of State imposes any legal control over the president in enacting such decrees. Decrees relating to the colonies are promulgated in the *Journal Officiel de la République française* or in the *Bulletin des lois.* (There is also a *Bulletin Officiel du Ministère des Colonies*). But they do not enter into force in the colony until they are promulgated by the Governor of the colony, i.e., published in the local *Journal Officiel.* The Governor thus has great power in delaying the application of a decree. A. Girault, *Principes de Colonisation et de Législation Coloniale,* fourth edition, second part, I, pp. 171 ff.

[3] Cf. Circular on Labor, March 6, 1912, *Journal Officiel du Sénégal,* 1912, p. 223.

[4] The French Colonial System is unique in its system of Inspectors. Under the authority of a "Direction du controle" in the Minister of Colonies in Paris, inspectors visit every colony every two or three years. The Inspector has the right to see every document, but he has no power to act. He merely reports to the Minister of Colonies upon the conduct of administration. Cf. A. Girault, *cited,* Second Part, Vol. I, pp. 352-371. The same principle is applied within the colonies. Each Governor has an Inspector of Administrative Affairs who visits administrative districts under his authority. These various inspectors have frequently been criticized as superfluous. Cf. the remarks of M. Archimbaud, Rapport, *Budget Général, Chambre des Députés* No. 1970, p. 17 (1926).

[5] Cf. Vol. I, p. 962.

Population of French West Africa—1921[1]

Colonies	French	Foreigners	Total European	Natives	Total	Area (Sq. kil.)	Density
Senegal	4,418	869	5,287	1,220,236	1,225,523	192,000	6.37
Mauretania	135	79	214	261,532	261,746	400,000	0.65
French Guinea	753	633	1,386	1,874,565	1,875,951	231,702	8.11
Ivory Coast	728	107	835	1,544,845	1,545,680	315,000	4.90
Dahomey	470	68	538	841,705	842,243	107,000	7.87
French Sudan	843	140	983	2,473,606	2,474,589	923,500	2.67
Upper Volta	180	11	191	2,973,251	2,973,442	370,000	8.02
Territory of the Niger	215	1	216	1,083,826	1,084,042	1,200,000	0.90
Total A. O. F.	7,742	1,908	9,650	12,273,566	12,283,216		

[1] *Annuaire du Gouvernement Général de l'Afrique Occidentale Française,* 1922, p. 65.

According to a census taken July, 1926, the total population is 13,541,611, divided as follows: Dakar and dependencies—40,152; Senegal—1,318,287; French Guinea—2,095,988; Ivory Coast—1,724,545; Dahomey—979,609; Mauretania—289,184; French Sudan—2,634,982; Upper Volta—3,240,147; Niger—1,218,717. The total European population is 15,399—an increase of 59% in five years. *L'Essor Colonial et Maritime,* July 7, 1927, p. 12.

merely an addendum to the Government of Senegal. The Governor of Senegal already had his hands full since he was obliged also to administer the territories of Senegambia and the Niger—through a delegate at Kayes. In decrees of 1902 and 1904, the French Government made important changes by moving the capital of the Federation from Saint Louis to Dakar, appointing a Governor-General independent of and above the Governors of the various colonies, and establishing a budget for the government-general fed by the customs duties which formerly went to each colony.[6] Under this system, each colony retains its financial and administrative autonomy and it remains under a Lieutenant-Governor named by decree who is responsible for the administration of each colony which is divided into *cercles* or districts under Commandants.[7] The Lieutenant-Governor is assisted in this work by a secretariat containing different *bureaux,* such as finance, the public domain and political, military, and economic affairs. The organization of government bureaux varies with each colony. In some colonies, they are all directly under the Secretary-General, an official at the head of the secretariat, who corresponds to the Chief Secretary in a British Colony. In other cases, the bureaux depend directly upon the Lieutenant-Governor. In addition to the bureaux, a number of departmental services depend directly upon the Lieutenant-Governor, such as the Departments of Public Works, Posts and Telegraphs, Direct Contributions, and the Treasury. The service of Direct Contributions is responsible for the assessment, but not for the collection of the direct contributions or taxes collected from the French citizens and subjects. This administrative organization resembles in many respects the administrative organization in France. In each colony a Military Commandant has charge of military affairs. He is kept in touch with the Governor through a military cabinet and he is responsible to the Commandant at Dakar. The Lieutenant-Governor also has a personal "cabinet," headed by a *chef de cabinet* who occupies a position similar to the private secretary of a British Governor. The judicial service of each colony is headed by a *Procureur de la République* who is responsible to the *Procureur Général* at Dakar.[8]

All departmental heads are completely subject to the Governor. A department head in a French colony cannot issue any orders, nor discipline, appoint or dismiss an official in his own name. The head of the Education Department cannot even grant scholarships in the schools on his own

[6] Decrees of October 1, 1902, and of October 18, 1904. Under the 1902 decree the expenses of the Government General were borne by a special section of the budget of the territories of Senegambia and the Niger, but in 1904 the Government General was given a budget of its own. *Bulletin des Lois,* 1903, Vol. 67, p. 693. *Recueil* 1902, p. 320; *ibid.,* 1905, p. 6. The text of the 1904 decree is printed in the appendix.

[7] Cf. Vol. I, p. 983.

[8] Cf. Vol. I, p. 1002.

authority; all of these matters take the form of a "decision" or other action of the Lieutenant-Governor acting ordinarily on the advice of the department head concerned.[9] Such a system unifies the administration but it frequently slows down the efficiency of departmental machinery and increases the number of wheels in the French administrative bureaucracy.

Except in Senegal, which has a Colonial Council,[10] the Lieutenant-Governor of each colony is assisted by a Council of Administration of which he is president. It contains four government officials, two elected representatives of the Chambers of Commerce and Agriculture, and a number of natives who were at one time appointed by the Governor-General upon the advice of the Lieutenant-Governor.[11]

Since 1925 the Councils of Administration of the Sudan, Ivory Coast, French Guinea and Dahomey have each contained three native subjects as members, elected by a native electoral college.[12]

Although half of the membership of the Council is unofficial, deadlocks do not arise because the Council has no real power. The Lieutenant-Governor is merely obliged to consult it upon twenty different subjects which include the budget, new taxes, loans, public works, and concessions relating to works of local interest. In other cases, the Lieutenant-Governor may take the advice of the Council whenever he deems it necessary.

The Lieutenant-Governor is assisted also by a smaller body called the Privy Council. In Senegal this body is composed of the Lieutenant-Governor, the Secretary-General, the *Procureur de la République,* the Military Commandant, a member selected from the Chamber of Commerce of Saint Louis, and three unofficial members, one of whom is a citizen and two, subjects. This body must be consulted on a total of fourteen subjects such as the draft estimates, the final accounts of receipts and expenditures, and all proposals to modify taxes.[13]

In each French colony the commercial interests are organized in semi-government Chambers of Commerce and Agriculture, of a type unknown to Anglo-Saxon countries. Membership is limited to Frenchmen.[14]

The number of members in each Chamber of Commerce is limited by *arrêté* of the Governor-General. Thus the Chambers of Commerce of Dakar and Rufisque each contain fifteen members, that of Saint Louis

[9] Cf. Vol. I, p. 986.

[10] Cf. Vol. I, p. 967.

[11] Decree of December 4, 1920, *Journal Officiel de l'Afrique Occidentale Française* (hereafter cited as *Journal Officiel*), 1921, p. 81.

[12] Cf. Vol. I, p. 981.

[13] Article 2, Decree of March 30, 1925. Appendix.

[14] Corresponding members of foreign nationality may, however, be elected; they may participate in the meetings but do not have a right to vote. Article 4. *Arrêté* of the Governor-General, August 16, 1923, *Recueil,* 1924, p. 325. In Togo, however, foreigners are admitted to full membership in the Chamber, apparently because of the Mandate, cf. Vol. II, p. 366.

contains twelve and that of Kaolack, nine.[15] These members are elected by the heads of the commercial firms in these respective centers. Establishments are given representation in proportion to the size of the business license which they pay.[16] These chambers are supported by the proceeds of an additional license tax which every merchant must pay whether he is a member of the chamber or not, and which is collected by the government. It is the policy of the government to consult these bodies in regard to economic questions. Sometimes the chambers perform activities in their own name. Thus the Chamber of Commerce of Turcoing has received a five thousand hectare concession for sheep grazing, and the Chamber of Commerce of Rufisque has a concession for operating the wharf. Apparently the first administrative duty imposed upon the Chambers of Commerce is that of inspecting groundnut exports.[17]

Each colony in the federation retains its own budget which is fed by the native head taxes and some local fees. All customs duties are now paid into the central government. These budgets do not, moreover, have to be submitted, as does the budget of the government-general for approval to the Minister of Colonies, but merely to the Governor-General at Dakar, which thus expedites administration and makes possible the re-allocation of expenditure to meet new needs.

2. *The Government-General*

In order to supervise the work of these eight colonies, the government-general has been established at Dakar. The Governor-General is the *dépositaire* of the powers of the President of the Republic. He alone has the right of corresponding with the home government. He is assisted by an advisory body, called the Council of Government, composed of the Lieutenant-Governors of the eight colonies and other officials, making a total of nineteen official members; and also the deputy from Senegal, two members of the Colonial Council of Senegal, a French citizen elected by the Municipal Councils of Dakar and of Gorée, two members elected by the Councils of Administration from each colony, and one citizen and one subject.[18] Thus about ten of the forty-four members of the Council of Government are natives.[19]

[15] *Arrêté* of November 15, 1923, *Journal Officiel*, 1923, p. 802.

[16] Cf. the table, *ibid.*, p. 803.

[17] Cf. Vol. II, p. 47. Also *Allocation par le Président de la Chambre de Commerce de Dakar*, April 19, 1926, p. 3. A decree of March 9, 1925, also authorized the establishment of Consultative Councils of Agriculture and Industry. *Recueil*, 1925, p. 327.

[18] The colonial delegates to the Superior Council of Colonies and the Chambers of Commerce of Senegal are also elected.

[19] Article 1, Decree of March 30, 1925. The Lieutenant-Governor of each colony and the Governor-General of the Federation is assisted by a Permanent

The Council of Government meets only once a year since more frequent meetings are virtually impossible because members must travel tremendous distances. It meets in an imposing brick structure opposite the Palais du Gouvernement at Dakar. Unlike the Colonial Council, the Council of Government has no power of deliberation. Debates seldom occur, and no committees are appointed to study matters in detail. Its chief business is in passing upon the budgets of the eight different colonies. These budgets are not, however, discussed chapter by chapter. In 1925, the session of the Council lasted only about four days, in contrast to sessions of the Colonial Council which frequently last two or three weeks. Sometimes the Council also discusses the principle of new decrees, such as the measures relating to agricultural credit and the protection of native labor.[20] Neither the Council of Administration in the capital of each colony nor the Council of Government at Dakar has any power comparable to that of a Legislative Council in British territory.

The French citizens in French Guinea, the Ivory Coast, Dahomey, Upper Senegal (now the Sudan) and the Upper Volta are represented in the Economic Section of the Superior Council of Colonies at Paris, an advisory body to the Minister of Colonies.[21] Elections for this position take place every four years in the colony concerned at which it is customary to choose a deputy or other public man in France to represent local interests upon the council. The citizens of Dahomey, however, last year chose a local merchant for the position.

In theory the Governor-General relieves the Minister of Colonies of the necessity of making many decisions and hence decentralizes control. Presidential decrees still lay down general principles of legislation, but in promulgating them, the Governor-General may issue more detailed *arrêtés* defining the principles that should be carried out, or adapting them to meet local conditions. The Lieutenant-Governor of each colony issues *arrêtés* applying these principles to his colony, subject to such modifications as the conditions of the colony may require. Thus the labor decree of 1926 authorized each Lieutenant-Governor to draw up the scale of rations, etc., to which employers must conform.[22] The Governor-General must approve the most important *arrêtés* of Lieutenant-Governors, especially those relating to local taxes. The federation thus embodies the principle of "legislative" decentralization.

Commission, composed of three or four officials and several unofficial members. These commissions must be consulted on a number of matters, and in a sense correspond to the Executive Council in a British Colony.

[20] Cf. Vol. II, pp. 29, 46.

[21] Decree of September 28, 1920, *Recueil,* 1921, p. 109.

[22] Cf. Vol. II, p. 31.

The same principle is also in theory applied to administrative matters. The decree of 1904 established a secretary-general in the office of the government-general for the purpose of watching over various administrative activities in the various colonies, such as ordinary matters in connection with health, public works, and education. Departmental services of the government-general have also been established to relieve each colony of the burden of providing transport facilities affecting more than one territory, and to perform other activities of an exceptional nature, such as the establishment of special research institutions in agriculture or in medicine. In all other matters, the departmental services of the central government are merely supposed to *advise*. The responsibility for the actual execution of policies is placed upon the Lieutenant-Governor of each territory.

3. *Decentralization*

As a matter of fact, a great many difficulties have arisen in defining the respective spheres of the government-general and of the colonies. M. Roume, the first Governor-General, signed few *arrêtés* compared with later occupants of that office, and each colony did virtually what it pleased. In 1909, the office of the Secretary-General of the central government was suppressed, which left the colonies still more freedom, but it was revived in 1916. Subsequent Governors-General were of a more dictatorial nature and tended to restrict the autonomy of each territory. This tendency alarmed Governor-General Van Hollenhoven who, in a circular of July 28, 1917, declared that department heads in the central government should not correspond directly with the Governors nor give orders to department heads in the colonies. He declared that all correspondence between Dakar and the colonies should be in the name of the Governor-General and of the Lieutenant-Governor concerned, except correspondence in regard to judicial and military matters, etc., for which separate services existed.

The circular declared that the Lieutenant-Governor had absolute control over movements of personnel in his colony, except for certain persons named by decree. He had unlimited power over the appointment and dismissal of native chiefs. The Governor-General warned the Lieutenant-Governors, however, against frequent changes in personnel which demoralized European officials and which, in the case of chiefs, would lead to the disorganization of native society. He expressly asked them to prohibit local administrators from changing or applying disciplinary penalties to native chiefs. . . . "This question is of capital importance for the political direction of your colony." [23]

Despite the above pronouncement, exigencies produced by the World

[23] *Journal Officiel*, 1917, pp. 441 ff.

War increased the centralizing tendencies of the Dakar Government. When M. Jules Carde became Governor-General in 1923, he found that the departmental services were really directing and initiating the work of the services in the colonies and that the Lieutenant-Governors had very little discretion or initiative of their own. In a circular of August 16, 1923, and in *arrêtés,* he attempted to return to the Lieutenant-Governors the powers of which they had been deprived. The purpose of the government-general, he declared, was to "orient the evolution of the group of Colonies under its charge, by coordinating their efforts, dividing the general burdens in proportion to their capacity, defending . . . the interests of this group of Colonies of which it constitutes the tie." Nevertheless, the powers of the Lieutenant-Governors remained what they were. All correspondence must carry the signature of the Governor-General or of the Lieutenant-Governor and not of the department concerned. "In order that my control may be exercised, I must find confronting me only one person responsible, which is you. This responsibility you cannot and should not place upon any one else." Even a technical report from the colony must be signed by the Governor.[24] In order to exercise his control more simply and to shift the burden to each local colony, the Governor-General reorganized the central administration by reducing the number of "Services." Thus the Service of Personnel and of Archives, the Geographic Service, and the Services of Domaines, Police and General Security, Agriculture, and Posts and Telegraphs, not to mention other services in the central government, were suppressed and their duties transferred to "Directions" and "Inspections." At the present time, there are four such Directions, (1) the Direction of the Cabinet, (2) the Direction of Finances and Accounts, (3) the Direction of Political and Administrative Affairs, and (4) the Direction of Economic Affairs. Likewise, there are three General Inspections, i.e. (1) the General Inspection of Public Works, (2) the General Inspection of Sanitary and Medical Services, and (3) the Inspection of Education.[25] Similar departmental services are found in each colony but they are agents of execution, acting upon the order of the Lieutenant-Governor who is advised and controlled by the Governor-General at Dakar, who defines policy on the advice of the Directions and Inspections.

M. Carde also transferred a number of lesser duties to the Lieutenant-Governors which had hitherto been exercised by the Governor-General, such as the right to determine the amount of trade powder which might be imported into the colony, to expel foreigners, to delimit agricultural and

[24] Circular of August 16, 1923, *Journal Officiel,* p. 607.

[25] *Arrêté* of July 27, 1923, *ibid.,* 1923, p. 568. The "Ordre de Service" defining the work of these respective Directions and Services is published, *ibid.,* p. 587.

forest regions, to make certain decisions in regard to public works, to fix the dates for school holidays, and to authorize the opening of private schools. Altogether a total of ten such duties were transferred. It is evident from the nature of these subjects that in the past the Governor-General closely controlled and acted upon matters of slight importance.

Likewise the system of reports of each colony to the government-general was changed. Instead of sending certain economic reports to Dakar, the Lieutenant-Governors now send them directly to the *Agence Économique* at Paris.[26] The old quarterly political report now became annual. Despite these changes the discretion of the Lieutenant-Governor remains limited in many directions. The Governor-General declared to the Council of Government in 1923: "I am not ignorant of the fact that the reforms realized are still very limited, that they constitute measures of a secondary importance which will certainly facilitate local administration but which will not suffice to give it the administrative and financial autonomy" which he desired.[27] Ministerial decrees are still executed by *arrêtés* of the Governor-General rather than of the Lieutenant-Governor. The Lieutenant-Governor may not even impose a local tax or erect an important building on his own authority. It appears, therefore, that despite repeated insistence upon the principle of decentralization, the Government of French West Africa is still very largely in the hands of Dakar. Whether or not the colonies under this system have less autonomy than they would have if directly under the Minister of Colonies, as are the British Colonies under the British Colonial Office, is difficult to say. Presumably it would be easier for such a colony to gain its administrative freedom from Paris than from Dakar, where vigilance is increased by proximity.

4. *Senegal's Opposition*

Some of the colonies have definitely resented the encroachment of the federal authority upon their power. This resentment has been particularly great in Senegal where the establishment of the government-general lessened the importance of that self-governing body, the Colonial Council. In 1918 a speaker at the General Council demanded a return to the system which existed under the decree of 1895.[28] As late as 1921 a member declared that the Council should request the Minister of Colonies "to restore to the Colony the real autonomy foreseen by the decree of 1903, and to

[26] Each group of French colonies has an *Agence Économique* which answers inquiries of business houses and distributes colonial propaganda. The *Agence Économique* of French West Africa publishes a monthly *Bulletin Économique*. There is an *Agence Générale des Colonies* which handles the business of the colonies in Paris, much as do the Crown Agents in London.

[27] Discours prononcé par M. J. Carde, *Session du Conseil de Gouvernement*, 1923, p. 8.

[28] *Conseil Général, Colonie du Sénégal*, December, 1918, p. 81.

insist that the violation of this autonomy by the superior authority—an abusive interference which paralyzes the initiative and effective action of the Colony—could no longer be tolerated." [29]

This feeling was originally caused by the fact that the establishment of the Federation in 1904 deprived the colonies of much of their revenue. Before 1904, Senegal and other colonies collected and applied customs duties to the expenses of the local administration. When the government-general was created in 1895, the cost of its administration was divided between the different colonies. In 1905, the Senegal budget had receipts amounting to five and a half million francs. But the establishment of the federal budget in 1905 took away the customs duties of Senegal and the other colonies, and at one stroke deprived Senegal of seventy-eight per cent of its revenues. In return, the federal government, according to Senegal spokesmen, assumed only thirty-nine per cent of the expenses which these sums had met.[30] Consequently, since 1905 the General Council of Senegal has protested against the establishment of the federal budget, and some of its members have demanded the suppression of the whole federal system on the ground that it establishes unnecessarily costly machinery.[31]

So strongly did the General Council resent the curtailment of the revenue, that it attacked the legality of these decrees before the French Council of State in Paris. The advocates of the Council took the position that the Finance Law of April 13, 1900, had granted the Council power to deliberate in regard to the collection and imposition of taxes, which included customs duties; and that the President by decree could not take away power which Parliament had granted. The Council of State ruled, however, in a judgment handed down in 1908, that the law of 1900 did not grant to the Council the exclusive power of taxation over the territory, but merely the power to control the imposition of those taxes which the home government authorized. Consequently, the decrees and the Federation were valid.[32]

Periodically since this decision, members of the Senegal Council have vented their opposition against the Federation. Similar opposition came from French Guinea for the same reason, namely, that the more prosperous colonies would be obliged to contribute to the development of the less prosperous territories.[33] The importance of this grievance is shown by the fact

[29] *Ibid.*, December, 1921, pp. 23, 367.
[30] Cf. the argument of M. Tardieu before the Council of State, *Recueil*, 1908, p. 216.
[31] Cf. the remarks of M. Guillabert, *Conseil Colonial*, August, 1921, p. 12.
[32] *Arrêté* of May 29, 1908, *Recueil*, 1908, p. 209.
[33] A. Arcin, *cited*, p. 719. Leroy Beaulieu (in *De la Colonisation chez les peuples modernes*, Paris, 1908, 6th edition, Vol. II, p. 76), also was dubious about the value of the federal experiment.

that the population of Senegal—which is only one-tenth of the total population of West Africa—paid half [34] of the customs duties collected by the federal government in 1926. The people of Dahomey and Senegal together contribute three-fourths of the duties which go into the funds of the general government and which are expended on the development of the poorer parts of the territory. While this is financially advantageous from the standpoint of the home government, it imposes an obligation on one colony for the benefit of another which goes further than the loan which Togo made to the Cameroons, inasmuch as the money is paid out without any prospect of return.[35]

5. *Federal Finance*

The heart of the Federation of West Africa is the federal budget. The purpose of creating this budget was explained in 1905 by Governor-General Roume who declared: "In creating the general budget, the decree of October 18, 1904, intended, not to bring about a work of excessive centralization which would run the risk of impeding the individual evolution of each Colony in the group, but of constituting a financial instrument which would establish, on more solid and firm bases than hitherto, the civil personality of French West Africa, thus offering new guarantees to bondholders," so that loans for the development of the territory could have solid security. The revenues of the federal budget consist almost wholly of indirect taxes.

They have increased as follows:

	Estimated Revenue fr.	*Actual Revenue fr.*	*Expenditure fr.*	*Surplus fr.*
1905	14,950,000	25,043,780	24,797,178	246,602
1913	31,830,000	34,332,225	31,583,201	2,749,024
1914	31,300,000	26,578,067	26,578,067	.....
1915	23,450,000	22,673,016	22,673,016	.....
1916	24,360,000	25,604,552	22,530,374	3,074,178
1918	23,940,000	31,995,992	25,943,194	6,052,797
1920	40,509,800	62,598,864	42,090,433	20,508,430
1921	64,604,240	64,749,125	60,609,558	4,139,566
1922	72,260,000	76,547,627	66,379,367	10,168,260
1924	69,600,000	126,736,772	83,786,773	42,949,999
1925	88,547,000	.....	.....	.....
1926 [36]	145,029,000	235,000,000	173,000,000	62,000,000

[34] 42,346,100 francs out of 87,860,000 francs.
[35] Cf. Vol. II, p. 284.
[36] *Exposé des Motifs, Budget Général, Gouvernement Général de l'Afrique Occidentale Française* (hereafter cited as *Budget Général*), Gorée, 1926, p. iii.

The actual receipts of the federal treasury thus increased from about 25,000,000 in 1905 to about 34,000,000 francs in 1913—an increase of about thirty-six per cent. In making further comparisons, the depreciation of the franc must be taken into account. Although the figure of 145,000,000 francs—the estimated revenue in 1926—is four times as large as the figure for 1913, its value in gold is a little less than the 1913 figure.[37]

While the revenue measured in gold of the federal government has not increased since 1913, the purchasing value of the present revenue is greater than the 1913 revenue. Thus in 1924, the expenditures of the federal government were 84,000,000 francs in comparison with 32,000,000 francs in 1913. Measured in gold, the 1924 expenditures would be less than 17,000,000 francs. Upon a gold basis, the revenue of the Federation today is therefore about what it was before the War, but expenditures have declined nearly one half. This decline is due not only to an actual decrease in salaries, estimated upon a gold basis, but also to savings arising out of reduced personnel and cheaper costs of construction, particularly in regard to the item of native labor.[38]

Each of the eight colonies also has its budget fed by direct taxes, the total income of which amounted in 1926 to about 284,000,000 francs.[39]

The financial situation of the federation was as follows:

Finances of French West Africa—1926

in millions of francs

	Receipts	Expenditures	Excess
General Budget	235	173	62
Local Budgets	284	261	23
"Annexed" Budgets[40]	102	97	5
	621	531	90

Of this total the general budget contributes thirty-eight per cent while the local budgets—of the eight colonies—contribute nearly forty-six per cent.

What has the government-general done with the funds which it has thus collected? Between 1905 and 1924, it expended about 37⅕ per cent upon public works, a total of nearly 534,000,000 francs, about half of which came from current revenue and half from loans. The largest single item was 118,000,000 francs for the Thiès-Niger Railway. Total railway

[37] In these calculations, the present value of the franc is taken as one-fifth of the value before the War or one hundred francs to the pound.

[38] Cf. Vol. I, p. 1092.

[39] Excluding subventions from the general budget.

[40] These include the budget for the District of Dakar, railway budgets, etc. These figures are taken from The Address of the Governor-General to the Council of Government, *Journal Officiel*, 1926, p. 1039.

expenditure was about 282,000,000 francs. About 35,000,000 francs were expended on rivers and harbors; 23,000,000 francs on water works; 5,000,000 francs on the construction of military roads and buildings; 7,500,000 francs on roads and bridges; 1,300,000 francs on irrigation, and 20,000,000 francs on public buildings. In 1926, the Dakar Government expended about 66,000,000 francs upon special Public Works, such as 25,000,000 francs on various railway projects; 5,000,000 francs on irrigation of the Niger; 1,000,000 francs on hydro-electric power in Senegal; and 500,000 francs on the Medical School at Dakar. These expenditures came not only out of current revenue but also out of loans. Between 1903 and 1913 the Dakar Government contracted four loans totalling 346,000,000 francs [41] or 13,800,000 pounds. This sum is more than twice as large as the loans made by Nigeria between 1905 and 1919.[42] Apparently because of the large revenue derived from the federal budget, and because of the precarious condition of the franc, the Federation of West Africa has not made any new loans since 1913,[43] in contrast to the Nigeria Government which between 1919 and 1927 floated loans amounting to 19,513,516 pounds. The debt of French West Africa about equals that of the Belgian Congo.[44]

In 1926 expenditures on the service of the French loans accounted for 33 per cent of the expenditure.[45]

From the beginning, it has been the policy of the French Government to put its annual surplus into a *Caisse de Réserve*. This reserve was originally designed as a "regulator of the budget"; it was to serve as a fund from which unforeseen expenditure could be met.[46] Part of the funds in

[41] Loan of sixty-five millions, Law of July 5, 1903; Loan of one hundred millions, Law of January 22, 1907; Loan of fourteen millions, Law of February 18, 1910; Loan of one hundred and sixty-seven millions, Laws of December 23, 1913. The loan of 65,000,000 francs was for the purpose of refunding loans previously made by the Colonies of Senegal and Guinea, of building public works and ports in Dakar, Saint Louis and Rufisque, and of opening up railways into the interior of Senegal, Guinea, and the Ivory Coast.

The hundred million loan was to construct further ports and railways, and hospitals, barracks, and telegraph lines.

The loan of 14 million was to construct the second section of the 200 kilometres of railway from Thiès to Kayes, the first section having been constructed from the one hundred million loan.

Finally the loan of 167,000,000 was to execute a general system of public works, such as railways and ports, to complete the work started by previous loans. West Africa has therefore borrowed the sum of 346,000,000 francs. Cf. "Rapport sur la situation des Travaux Effectués sur les Fonds d'Emprunt de l'Afrique Occidentale Française au 31 Decembre 1920." *Journal Officiel, de le Républiqué Française,* August 21, 1921, p. 9831.

[42] Cf. Vol. II, p. 889.

[43] It has, however, utilized several installments or "tranches" of the 1913 loan. Cf. Decree of November 25, 1923, *Recueil,* 1924, p. 29.

[44] Cf. Vol. II, p. 889.

[45] *Budget Général, cited,* p. xxxix.

[46] Cf. Article 258, Financial Decree on Colonial Finance, December 30, 1912.

this reserve has been invested in bonds.[47] The maximum amount of these reserves was originally fixed by an *arrêté* of the Colonial and Finance Ministers. By means of its reserve, the federal government was able to balance its budget during the lean periods of the World War without recourse to the home government except to the extent of 150,000 francs. To meet these demands, the Governor-General drew upon the reserve to the extent of 6,250,000 francs, while it also received contributions from the local budgets of each colony amounting to more than 7,130,000 francs, sums which it later reimbursed.[48]

Thus the original purpose of the reserve was to serve as an insurance fund. Each colony likewise aimed to build up such a reserve by means of which one part of the Federation could aid another part in case of need without troubling the home country. From this standpoint, the financial system of the Federation has worked out admirably.

6. *"Mise en Valeur"*

During the World War, different official elements began to consider the possibilities of developing the resources of the French Colonial Empire so as to free France from dependence upon outside sources of supply.[49] This question was also studied by M. Simon, Minister of Colonies in 1919. The rapid decline of the value of the franc at the end of the World War to a fifth of its par value made the purchase of raw materials and other products upon which France was dependent upon outside sources more difficult than ever before. While prices within French territory rose, they invariably lagged far behind the increasing dearness of foreign money. If France could develop such sources within the empire, she would obviate the grave difficulties presented by the exchange.

With this in mind, and realizing that the rich resources of the Colonial Empire had scarcely been touched, M. Albert Sarraut, Minister of Colonies in 1921, visited French West Africa and thereafter mapped out a plan for the economic development of the colonies. He definitely proposed in a project of law laid before the Chamber April 12, 1921, the improvement or construction of wharves in eight ports in West Africa and the widening of the mouth of the Senegal river. He suggested that twenty different railways and six different highways be constructed or extended and that

[47] Cf. "Situation de la Caisse de Réserve," June 30, 1925, *Budget Général, cited,* Annex No. 1.

[48] "Rapport par M. A. Lebrun, au nom de la Commission des Finances Chargé d'examiner le projet de loi, adopté par la Chambre des Députés, portant fixation du budget général de l'exercise 1926," No. 155 Sénat, 1926, Session Ordinaire, p. 115. Hereafter cited as *Rapport, Budget Général, Ministère des Colonies.*

[49] *Conférence Coloniale,* report of a conference called by M. Maginot, Minister of Colonies, Paris, 1917.

the water supply in six different centers be improved. He outlined an irrigation project for the Niger valley, and proposed the construction of public buildings, most of which were to be at Dakar. His plan also called for the construction of a large number of dispensaries, hospitals, and schools.

The execution of this plan would take, in the opinion of its author, a period of fifteen years. In order to give some stability and continuity to the *mise en valeur* of the colonies, he proposed to give this program the sanction of law voted by parliament, the broad lines of which could not, therefore, be departed from by administrative action. Any modification should be approved by law. In order to carry out this plan, M. Sarraut believed that financial aid in the form of loans guaranteed by the home country and also by the colonies would be necessary.[50]

Meanwhile, the franc continued to fall in such an uncertain manner that loans, whether guaranteed by parliament or by the federation, were out of the question. No one would invest ten thousand francs in bonds the value of which might be cut in half the next week. But the very condition of the franc led to new efforts to find sources of materials which would free France from dependence upon the pound. In order to develop the colonies, transport and communications such as railways and harbors were necessary. Ordinarily in the past such projects have been financed out of loans guaranteed either by the French Parliament or the Federation. Such is the practice of the British Empire to-day. But because of the extremely difficult position in which France found herself following the World War, she was obliged to construct these projects, not out of loans but out of current colonial revenue.

As a result of these necessities, the financial relations of the local and general budgets in French West Africa somewhat changed. In the first place, the maximum limitation imposed upon the amounts in the *Caisse de Réserve* was abolished, and efforts were made to accumulate reserves as large as possible from which public works could be financed. Such a financial policy, according to the Governor-General, "makes it possible to-day to pursue the development of the country without recourse to loans, and without appealing to the *Métropole*." [51] The success of the government in piling up a surplus over expenditure is demonstrated in the table above. In 1924 the excess of receipts over expenditures was nearly half the total expenditure of the federal government.

For the purpose of carrying out the measures proposed by M. Sarraut

[50] Projet de Loi portant fixation d'un programme général de mise en valeur des colonies françaises, Annexe. Cf. No. 2449, *Documents Parlementaires-Chambre. Journal Officiel*, 1921, p. 1574. A. Sarraut, *La Mise En Valeur Des Colonies Françaises*, Paris, 1921.

[51] *Budget Général, cited*, 1926, p. xxvi.

and by the local administration, the public works program has been divided into two general parts. The first consists of plans which interest more than one colony in the federation, and which are financed out of the general budget. The second includes plans of local interest which are financed out of the different local colonial budgets which also have *Réserves,* but which ordinarily no longer receive a subvention from the federal budget. Under this financial system, the local budgets carry burdens which under the original federal idea should have been carried by the central budget. Both types of public works are financed out of current revenue.

Moreover, French West Africa contributes large sums to the Mother Country. In 1926, the Minister at Paris increased the military contribution of West Africa to the home country from 1,800,000 to 7,500,000 francs. The federation expends another 3,500,000 francs in behalf of France upon such items as military pensions for native soldiers, and the reimbursement of the Mother Country for advances in regard to the Thiès-Niger Railway.[52]

In addition, the budget of each colony supports military bureaus and other military services, at a total expense of 4,793,000 francs. The Dakar Government estimates that in 1926 the colonies expended another 1,913,000 francs on expenditures which would ordinarily be borne by the home government. In the *exposé des motifs* of the budget, the government says that to these figures should be added the loss in taxes arising out of the fact that thirty-eight thousand natives are in the army, and out of other items. According to the official estimate, French West Africa in 1927 gave to the French budget in Paris a total sum of 19,409,200 francs.

In referring to the direct payments made by West Africa to the home government, the Governor-General declared at the 1925 session of the Council of Government that "these sums are in fact large in relation to our resources but they are little in comparison with the charges weighing upon the Mother Country. . . . Et bien, Messieurs, our duty is plain. France calls; we respond." [53]

It is difficult to pass judgment upon this policy of contributions by the colonies to France because part of this contribution represents the cost of military administration in the colonies which the Paris Government bears but which England has always imposed upon the local budgets. On the other hand, the cost of military administration in West Africa is higher than it otherwise would be because military policy is directed not only towards defending the territory, but also towards assuming part of the

[52] *Budget Général,* 1926, p. xii.
[53] *Discours prononcé par M. J. Carde, cited,* 1923, pp. 46-47.

military burden at home. This sum of twenty million francs, or two hundred thousand pounds, which is paid into the French Government by West Africa, is only about seventy-five thousand pounds larger than the sum which the Tanganyika Government expends upon the King's African Rifles—a territory with only one-third of West Africa's population. Nevertheless, there is an ethical difference between the two systems. The expenditure in Tanganyika is for the defense of the local territory, while the contributions in West Africa are frankly for the home government. Moreover, French troops are underpaid.[54] Once the principle has been accepted that the colonies may be called upon to give financial aid to the home government for one purpose, it will be difficult to prevent extending such aid for other purposes. The extent to which this principle has been applied has recently alarmed the Chamber of Deputies Reporter on the Budget of the Minister of Colonies who declared: "The problem of the contributions which the home government may demand of the colonies for the military expenses which they necessitate and for the civil expenses which they occasion touches the very future of our colonial domain and its development. . . . It presents an aspect of very grave importance. One cannot believe that we may annually increase with impunity the charges which weigh on the shoulders of the Colonial taxpayer to relieve those of the taxpayer at home." [55]

In 1926, the French Government made an appeal for a "voluntary contribution" to the colonies similar to the appeal which it made in France for the purpose of rescuing the franc. In the "appeal" to the population of the colonies, the government said, "To justify in your eyes this new duty it should suffice to recall to you that the strength of this *patrie* rests above all in that national unity which has always joined the Frances from across the seas to the France of Europe." [56] As a result of this appeal, contributions in West Africa to the extent of nearly seven million francs were made. Nearly half of this sum came from Senegal,[57] including a million francs voted by the Colonial Council.

[54] Cf. Vol. II, p. 13.

[55] M. L. Archimbaud, *Rapport, Budget Général, cited,* 1925, No. 518, *Chambre des Députés,* 1924.

These contributions are also opposed for economic reasons by O. Homberg, "La France des Cinq Parties du Monde," *Revue des Deux Mondes,* December 15, 1926, p. 887.

The budget of West Africa also makes fifty-two subventions to different colonial enterprises in France, whether colonial schools, professorships in colonial history at the University, the Institut Colonial Français, or the Institute of Ethnology. It makes thirteen subventions to local committees in regard to athletics, health, etc.

[56] *Journal Officiel, cited,* 1926, p. 429.

[57] *Ibid.,* p. 820.

7. *Results of the Campaign*

This *mise en valeur* campaign has been highly successful from the financial and the commercial standpoint. As a result of the transport system and of scientific efforts to increase production which have been the fruit of this campaign, the value of exports increased from 279,549,399 francs in 1922 to 888,000,000 francs in 1925.

The export of groundnuts increased from 242,085,835 kilograms in 1913 to about three hundred and twenty million kilograms in 1924. The palm kernels export increased from forty million to seventy-two million kilos. About three-fourths of the exports of West Africa consist of oil products, chiefly groundnuts.[58]

This campaign has led, as we have seen, to great increases in revenue. The comparative situation is shown in the following table:

WEST AFRICA FINANCE

1926

Colony	Revenue	Revenue £ per 100	Ratio of Expenditures to Exports	Native Welfare Expenditures £ per 100	Native Welfare Expenditures Per Cent of Total
French West Africa[1]	3,442,593	28.1	39.1	3.468	12.45
Belgian Congo	2,712,555	25.8	43.4	4.740	18.22
Nigeria	5.403,050	29.0	44.8	4.472	11.22
Gold Coast	2,713,520	118.2	32.2	24.088	17.93
Sierra Leone	681,609	44.2	42.2	10.045	22.73
British West Africa	8,798,179	39.1	....	6.857	15.51
Liberia	146,716	9.8	40.8	.460	4.77

[1] These figures include expenditures of each colony as well as of the general budget. Detailed figures are printed in the Appendix, Vol. II, p. 209.

According to this table, the per capita revenue of French West Africa is somewhat greater than that of the Belgian Congo—both territories being on the franc basis. In view of the internal value of the franc, it is probable that the real revenue of French West Africa equals that of Nigeria. It is, however, only about a fourth of that of the Gold Coast government and less than that of Sierra Leone.

It seems also that French West Africa per capita devotes a smaller percentage of its total expenditure to native welfare than any of these governments except Nigeria. This seems to show, tentatively at least,

[58] The remaining quarter consists of a large number of products, such as mahogany from the Ivory Coast, Arabic gum, cocoa, cotton and skins.

WEST AFRICA POPULATION AND TRADE

1925

Colony	Population	Area Sq. Mile	Imports £	£ per 100	Exports £	£ per 100	Total £	£ per 100
French West Africa..	12,283,216	1,443,706	10,979,881	89.4	8,820,914	71.8	19,800,795	161.2
Belgian Congo	10,500,000	907,335	8,762,452	83.4	6,285,739	59.9	15,048,191	143.3
Nigeria	18,660,717	365,602	13,870,386	74.3	16,905,795	90.6	30,776,181	164.9
Gold Coast	2,298,433	91,690	8,821,000	383.8	9,815,000	427.0	18,636,000	810.8
Sierra Leone	1,541,311	27,250	1,941,314	126.0	1,627,916	105.6	3,569,230	231.6
British West Africa..	22,500,461	484,542	24,632,700	109.5	28,348,711	126.0	52,981,411	235.5
Liberia	1,500,000	42,000	432,095	28.8	358,962	23.9	791,057	52.7

that the federal system of finance which prevails in French West Africa has led to a larger percentage of revenue being devoted to public works and administration and a smaller percentage to native welfare, than in these other territories.

The commercial importance, calculated in sterling, of French West Africa in comparison with the Belgian Congo and British West Africa is shown in the table on page 942.

According to this table French West Africa is of greater commercial importance than the Belgian Congo. It is considerably less important, however, than British West Africa as a whole. Even the per capita trade of Nigeria, the lowest of the three British colonies, exceeds that of French West Africa.

Moreover, the development campaign in French West Africa has apparently increased the burdens of the native population. Since the establishment of the federal budget the local colonies have been compelled to pay their way out of revenue almost all of which comes from the native head tax. In order to provide funds to meet these obligations, each colony has been obliged to increase native taxes. In Dahomey, the total receipts increased from five million francs in 1918 to fifteen million in 1924—about one hundred per cent considering the decline in value of the franc. According to the *Exposé des Motifs* of the Dahomey budget, "A new effort will be asked in 1926 of the taxpayers to meet the expenses resulting from increased salaries to Europeans and natives, and from the construction of public works." [59]

In the Niger colony, the native tax produced 1,373,913 francs more in 1926 than in 1925. Between 1916 and 1926, native taxes in the Sudan increased 618 per cent. In 1926, they increased 65 per cent over 1925. In the Ivory Coast, the yield of native taxes increased from 11,000,000 in 1925 to 14,700,000 in 1926.

While the tax yield has greatly increased, it is difficult to determine the exact extent because of the steady depreciation of the franc over this period. It is likewise difficult to determine the exact burden which these taxes impose upon the native inhabitants. In 1926 the total estimated native direct tax in French West Africa was 103,216,488 francs, or about 8.43 francs per capita. The comparative tax burden in various colonies, estimated in pounds, is shown in the table on page 944.

This table reveals the interesting fact that direct taxes in French West Africa are higher than in any British colony on the West Coast and also higher than in the Congo, Togo and the Cameroons. Since the purchasing power of the pound in French territory is higher than in British territory,

[59] "Exposé des Motifs," *Dahomey Budget,* 1926, p. xxiv.

NATIVE TAXES IN VARIOUS COLONIES

1926

Colony	Direct Hut and Poll Tax Per Capita	Payment of Custom Duties Per Capita	Total Tax
French West Africa	£.084 [1]	£.026	£.110
Gold Coast	.000	.915	.915
Nigeria	.044	.179	.223
Sierra Leone	.039	.333	.372
Togo	.048	.110	.158
Cameroons	.044	.032	.075
Kenya	.194	.274	.468
Uganda	.128	.127	.255
Tanganyika	.168	.128	.296
Belgian Congo	.043 [1]	.110	.153

[1] Converted from francs @ 100 francs per pound sterling.

these figures would seem to show that the burden of the direct native tax in French West Africa is much higher, comparatively speaking, than the mere figures reveal. On the other hand, the customs duties in British colonies yield a much greater return than in the French colonies—so much greater, in fact, that the total per capita tax in all three British West Coast Colonies is much larger than the total per capita tax in French West Africa. The British system of obtaining a larger share of revenue from indirect taxation in contrast to the French system of a direct tax system has several administrative advantages. The native does not know that he is paying these customs duties, which are especially heavy upon spirits and tobacco. The more wealthy natives pay a heavier indirect tax than the poorer natives, in contrast to the poll tax which is usually a flat rate. Moreover, the European who consumes large quantities of liquor and other luxuries assumes a burden through the payment of customs duties which is much larger than that imposed by direct taxation. It should be reiterated, that all of these comparisons are at best approximate because of the impossibility in the absence of reliable index numbers, of converting francs to pounds at their real value.

The table on page 945 shows the relation of taxes to exports. This table would appear to show that a larger portion of the sums derived from exports are returned to the government in the form of taxes in the three British territories than in French West Africa. It would seem to

COMPARISON OF PER CAPITA TAXES AND EXPORTS

Colony	Per Capita Exports	Per Capita Total Tax	Per Cent Total Taxes to Total Exports
French West Africa	£ .72	£.110	15.3%
Gold Coast	3.82	.915	23.9
Nigeria	.77	.223	29.0
Sierra Leone	.98	.372	38.0
Kenya	1.05	.468	44.6
Uganda	1.62	.255	15.7
Tanyanyika	.73	.296	40.5
Belgian Congo	.599	.153	25.5

follow that, taking direct and indirect taxes together, the burden of taxation in British colonies is higher than it is in French West Africa.[60]

Whatever may be the actual effect of the system upon the native, the federation of French West Africa has succeeded in developing the hump of Africa with very little help from the home country and in opening up sources of raw material which have materially aided France during the reconstruction period.[61]

[60] In making this statement, we assume that apart from barter the internal trade in these territories which is not reflected eventually in export and import figures, is negligible. That is to say, the productivity of an African territory may be measured by its exports and its imports.

[61] The local press has frequently demanded the establishment of a currency independent of the French franc, while a number of Frenchmen have asked that German payments in kind be used to construct public works in the colonies.

CHAPTER 57

THE BLACK CITIZENS OF SENEGAL

In the French colonies, a distinction exists between "citizens" and "subjects," which apparently has arisen out of the doctrine of assimilation which so long dominated French colonial policy. In the French territories, there are two distinct systems of administration,—law courts, taxes and obligations to the government. There is the rough and ready system applied to the mass of illiterate "subject" natives, and the system containing more precise guarantees against abuse of power, which applies to Europeans and the few "assimilated" natives entitled to the rights of citizenship.

1. *Naturalization*

In the report accompanying the 1912 naturalization decree, the Minister of Colonies said that French citizenship might be given to those natives of the colony "who approach us in education, adopt our civilization and our customs, or distinguish themselves by their service." This decree provides that any French subject born in West Africa may acquire French citizenship after (1) having proved his devotion to French interests or after having occupied with merit for ten years at least a position in a French office, public or private; (2) having learned to read and write French; (3) having given evidence of possessing a means of existence and a good character. Natives decorated with the Legion of Honor or the Military Medal, and those who may have rendered service to France are exempted from the obligation to know French. A subject desiring to become naturalized must present a birth certificate or a *jugement supplétif*. When the native applies to become naturalized, his application is sent by the administrator or mayor to the Lieutenant-Governor who sends it with a recommendation to the Governor-General. The latter official forwards it with his opinion [1] to the Minister of Colonies. Upon the recommendation of the Ministers of Colonies and Justice, the President of the Republic may grant the native citizenship.[2]

These provisions have proved so strict that between 1914 and 1922

[1] Taken "En Conseil du Gouvernement."

[2] Decree of May 25, 1912, cf. *Journal Officiel*, 1912, p. 395; for the *arrêté* putting the decree into effect, cf. *ibid.*, p. 696.

only 94 natives in West Africa were naturalized.[3] In a decree of June 14, 1918, the government established a procedure by which natives in the French military forces having obtained the Croix de Guerre or the Military Cross could become citizens simply by renouncing their personal status.[4] It appears that only fourteen soldiers took advantage of this concession to become French citizens. It thus seems that whether because of native indifference or French opposition the vast majority of natives remain in the subordinate "subject" class.

In 1921, the number of native citizens was as follows:

Native Citizens in French West Africa

Senegal	22,771
Mauretania	116
Guinea	491
Ivory Coast	308
Dahomey	121
Sudan	1,164
Upper Volta	17
Niger	9
Total	24,997[5]

Thus about nine-tenths of the native citizens in French West Africa are found in Senegal. These citizens do not owe their status to naturalization under the law of 1912; nor have they been obliged to conform to the standards imposed by that decree. They owe their citizenship to an historic accident which will now be discussed.

2. *Citizens of the Four Communes*

Under the influence of the equalitarian doctrines of the French Revolution, Louis Philippe and his Parliament enacted a law in 1833 which provided that "Any person born free or having legally acquired his liberty enjoys in the French colonies: (1) civil rights, (2) political rights under conditions prescribed by law."[6]

[3] None were naturalized in French Equatorial Africa; one in the Cameroons; 70 in Indo-China, and 74 in Madagascar, a total of 239. Reply to question, *Journal Officiel, Chambre des députés,* February 1, 1923, p. 504. When in Dakar the writer was given figures showing that between 1914 and 1925 only 88 natives were naturalized in French West Africa, under the decrees of 1912 and 1918.

[4] *Ibid.,* 1918, p. 54.

[5] *Annuaire,* p. 65.

[6] *Bulletin des Lois,* 1833, Vol. V, p. 116.

In a decree of 16 pluviose Year II, the revolutionary government proclaimed "the abolition of negro slavery and decides that all men, without distinction of color, domiciled in French colonies, are French citizens and enjoy all the rights assured by the Constitution." M. Lamine Gueye, the only African advocate in French West Africa, asserts that the law of 1833 merely reaffirms the more precise decree of the Revolution. Cf. M. Lamine Gueye, *De La Situation Politique Sénégalais* (Thesis), Paris, 1922, p. 12.

Despite the provision in the Act of 1833 no subsequent legislation defining the political rights of the natives of Senegal was enacted.[7] Nevertheless, after 1848 the natives originating in the four communes of Senegal exercised the right to vote upon the same basis as Europeans despite the fact that their civil condition continued to be regulated by native and not by French law. A decree of May 20, 1857, expressly recognized that the natives could retain their Moslem status in regard to marriage, inheritance, and wills. The Moslem tribunals had jurisdiction over such cases unless the parties agreed to carry their disputes before a French tribunal.[8] In other words, a polygamist has been allowed to vote for a deputy to the French Parliament or in Municipal and General Council elections just as has any well-behaved monogamous Frenchman. This has not been the only anomaly of the situation. Only those natives could vote who originated in the four communes,—the only annexed territory in Senegal in 1848. That is to say, a native could not move into Dakar from the country and obtain the right to vote. He had to have been born in one of the communes, and even if eligible to vote in Dakar he could not vote in any other colony or in France.

Since no legislation expressly conferred the franchise upon the natives, their right to vote was challenged in the courts a number of years ago. In a decision in 1908, the *Cour de Cassation* upheld the right on the ground that the natives of the four communes of Senegal had derived the franchise from the application of the Municipal Law of 1884 to these communes.[9] But this explanation is obviously inadequate, inasmuch as the natives of these communes voted for a deputy long before this law was applied.

In the early days, the question as to whether or not the inhabitants of Senegal were French citizens was not raised, apparently because of the predominant belief in assimilation. For a time it was not raised also because colonial representation in Parliament was suppressed. When Senegal's deputy was restored in 1871 natives again were allowed to vote along with whites. In validating the election the French Parliament implicitly recognized the legality of the native franchise.

This system soon led, however, to difficulties. The black voters outnumbered the whites in the elections. The system did not, moreover, conform to the philosophy of assimilation inasmuch as it granted the privileges of citizenship to natives without requiring them to know French or to conform to French law. There was no attempt logically to justify the

[7] Cf. P. Dareste, "Les Nouveaux Citoyens Français." *Recueil*, 1916, part II, p. 1.

[8] *Bulletin des Lois de l'Empire Français*, 1857, Vol. 9, p. 878.

[9] *Arrêt* of July 22, 1908, *Affaire Moussé M'Baye*, Chambre civil, *Recueil*, 1908, part 3, p. 278.

arbitrary division of natives into two groups, those originating within and those originating without the four communes. One brother born two miles outside the city limits even though he had a *Lycée* education could not vote, although the privilege could be exercised by an illiterate brother born inside. In the elections for deputy and for members of the General Council, ill-will and racial feeling sometimes arose.[10]

For these and other reasons, the French authorities endeavored to deprive these natives of their franchise. The first attempt came in 1908, when the Lieutenant-Governor of Senegal asked that 1563 names be struck off the electoral lists of Dakar on the ground that the natives were only French subjects and hence could not vote. French citizenship, it was urged, was indispensable to the franchise and could be obtained only by individual naturalization. While the local court supported the action of the Governor, the *Cour de Cassation* in Paris ruled otherwise. In upholding the franchise, however, the court did not admit that the residents of the four communes were citizens of France; it simply stated that the law of April 5, 1884, declaring that all persons of French nationality over twenty-one years were elgiible to vote, applied to the communes. Since the Senegalese in the four communes possessed this nationality, they could vote. The laws regulating the election of deputies and establishing the communes and General Council had been applied in Senegal without any reservation in regard to the rights of the natives. The court said, "If the concession of the right to vote to the natives did not have the effect of conferring on those who are not naturalized the quality of citizens," nevertheless these other provisions gave them the franchise within the four communes.[11]

As a result of this decision, therefore, the native residents could vote, even though they were not French citizens. This failure to recognize citizenship led to much criticism on the part of the *originaires*—i.e., the natives originating in the four communes.

In a decree of January 5, 1910, it was provided that French citizens living in the colony outside the four communes could take part in the election for deputy, a privilege hitherto restricted to voters living in the communes. While the decree itself did not define the meaning of "citizens" the Minister of Colonies in his report declared that the decree applied to French citizens "to the exclusion of non-naturalized natives who only enjoy the franchise in the four communes *de plein exercice* on condition of being born there." [12]

Another step in restricting these rights came in the decree of August 16, 1912, which defined "natives" who were subject to the jurisdiction of the

[10] Cf. Vol. I, p. 955.
[11] *Affaire Moussé M'Baye, cited,* p. 281.
[12] *Journal Officiel,* 1910, p. 45.

native instead of the French tribunals [13] as all natives originating in West Africa "who had not had in their country of origin the status of European nationals." [14] This provision was interpreted by many natives to deprive the inhabitants of the four communes of the right of being tried by French professional magistrates instead of by administrative officials.[15] Consequently, furious criticism arose from the natives of the four communes who realized that the French, in contrast to the "native" tribunals, alone "offered serious guarantees" of a fair trial. One of them said: "Our fears were more than justified by the spectacle of what happened in the interior of the Colony, where administrators, reviving in certain respects feudal practices, imposed upon persons of our compatriots of the protectorate acts which are neither human nor French." [16]

As a result of the outcry of the *originaires,* the government enacted a new decree of March 2, 1914, in the report upon which the Minister of Colonies said that in view of the situation before 1912 and of the services and devotion to the French cause which the *originaires* had in the past shown, the provision in the decree of 1912 would be repealed. The new decree expressly declared that the natives born in the four communes would be subject to French tribunals throughout the colony and in certain other places.[17]

According to native spokesmen, the government also attempted to oppose "with tenacity and persistence the entrance of all natives of whatever status they may be, into the general administrative services, even into the military units stationed in the colony. . . ." [18]

Native subjects are, as we shall see, liable to service in a special body of Colonial Troops, while French citizens do service in special units of the Metropolitan Army located in West Africa. As a result of the demands of the native voters of Senegal, the government originally decided to conscript them in the Metropolitan Army upon the same basis as Europeans. After they had served four months in the regiment, the government discharged the *originaires* without giving any reason. Meanwhile, they were not subject to conscription in the Colonial Troops. But the natives continued to demand the privilege of conscription in the French forces, appar-

[13] Cf. Vol. I, p. 1002.
[14] Decree of August 16, 1912, Art. 2. *Ibid.,* 1912, p. 624.
[15] As a result, apparently, of the opposition to this provision, the Governor-General issued instructions to the effect that "natives enrolled on the electoral lists of Senegal are, throughout the whole colony, subject to the jurisdiction of French Courts." They are not subject to the régime of the *indigénat. Justice Indigène, Instructions aux Administrateurs sur l'application du Décret du 16 août* 1912, Dakar, p. 36.
[16] L. Gueye, *cited,* p. 31. Cf. Vol. I, p. 1014.
[17] Decree of March 9, 1914, *Journal Officiel, cited,* 1914, p. 322.
[18] L. Gueye, *cited,* p. 29.

ently because they believed it would strengthen their claims as citizens, a claim hitherto rejected, and because such service would give them greater prestige. In 1911, a Commission of the General Council of Senegal asked that voters should, without distinction of color, be called upon to perform obligatory military service.

3. *The Citizenship Law of 1916*

Three years later, M. Blaise Diagne, the first black deputy from Senegal, ran for office on a platform pledged to vote for a law to this effect. In a letter to the Minister of Colonies, he said that the natives of the four communes did not wish privileges without the obligations of French citizenship.[19] Diagne at once raised the matter in the Chamber; and parliament, anxious to swell the forces against Germany, enacted the law of October 19, 1915, which provided that the *originaires* were liable to conscription under the law of 1905 imposing conscription upon Frenchmen, and said they were to be incorporated in French troops.[20]

But the administration now declared that, in accordance with the interpretation of the *Cour de Cassation,* an *originaire* meant a person born in the communes but did not include his descendants if born outside. This gap gave M. Diagne another opportunity; and he now induced parliament to pass a new law—on September 29, 1916, without discussion and by a show of hands, as follows:

> Sole Article. The natives of the communes of Full Exercise of Senegal and their descendants are and remain French citizens submitted to the military obligations imposed by the law of October 19, 1915.[20a]

While the ostensible purpose of this law was to extend conscription to the descendants of *originaires* outside the communes, the important and fundamental provision, however, was the clause recognizing for the first time that these *originaires* were French citizens. By this means, they secured a status for which they had long struggled—despite the former attempts of the government to cut down their privileges.

From the practical standpoint, this law meant that the *originaires* of the four communes now carried the privileges of French citizens throughout the world. At the same time, they were not required to conform to any of the standards of French citizenship; they were not obliged to know

[19] L. Gueye, *cited,* p. 40. The government heeded this request to the extent of enacting a decree, April 26, 1915, authorizing the *originaires* to enlist in the Senegalese corps. *Journal Officiel,* 1915, p. 389.

[20] *Chambres Des Députés,* July 8, 1915, pp. 1072, 1976; *Bulletin Des Lois,* 1915, Vol. 3, p. 1932. One member unsuccessfully moved an amendment to the effect that natives recruited in the Metropolitan troops must know French.

[20a] *Bulletin des Lois,* 1916, Vol. 8, p. 1 1650.

the French language, nor to renounce their status under Moslem law.[21] At the present time an illiterate native with a dozen wives, born inside of Dakar, enjoys all the rights of French citizenship; while the most highly intelligent native, with a degree from the University at Paris, who is not an *originaire,* has none of these privileges unless he undergoes the tedious process of naturalization.

The inconsistency of the present situation is irritating to many Frenchmen—a situation which, in their opinion, works "to destroy the prestige of France in this country." [22] These privileges, according to others, make the inhabitants of the four communes feel even superior to their French compatriots! In his election manifesto of 1919, M. Blaise Diagne, the black deputy, declared, "French citizens you are! French citizens you remain, without, however, having your personal status disturbed. . . . You may be a Frenchman and a Moslem!" [23]

4. *The "Jugement Supplétif"*

The fact that the privilege of citizenship is granted to *originaires* but not to others has led to a number of difficulties in establishing the true origin of the natives demanding the right to vote and the other privileges which go with the status of citizenship. The system of *état civil* or compulsory registration of births and deaths exists in the four communes as it does in France. A native is supposed to establish his eligibility to citizenship by presenting his birth certificate. In practice, however, many native parents have neglected to register their children at the time of birth. To overcome this negligence, and to obtain birth certificates, which are necessary for entrance into government schools and for qualification for military pensions, as well as for proof of the existence of citizenship, the native concerned may go to the tribunal and receive a *jugement supplétif* to the effect that the native has been born in one of the four communes. For a time, the tribunal granted these *jugements* on the testimony of two wit-

[21] As a matter of fact, the civil status of the *originaires* as a result of the 1916 law is a matter of doubt. A local court implied that the laws of 1915 and 1916 implicitly abrogated the decree of May 20, 1857, and other decrees which allowed the *originaires* to remain under Moslem law.

Dareste also declared, "La conséquence la plus directe et la plus certaine, c'est que les sénégalais des quatres communes vont être régis par le statut personnel des citoyens français, c'est-à-dire par le Code civil et les lois français." Dareste, "Les Nouveaux Citoyens Français," *Recueil,* 1916, p. 10. If such had been the result, all of the marriages of these black citizens would have been illegal. So drastic were the consequences of this interpretation that so far it has not been adopted. The Senegal administration has recognized as valid the marriage certificates of Moslem priests, in granting pensions to families of native soldiers. But the natives are somewhat uneasy lest the administration attempt to force the French codes upon them, under penalty of depriving them of the right to vote.

[22] Cf. The editorial, "État d'Esprit," *La Tribune, Dakar,* November 28, 1919.

[23] Cf. *L'Ouest African Français,* November 20, 1919.

nesses—a procedure which led in many cases to false swearing in order to obtain citizenship papers for natives not born in Dakar. By this means, wholesale "naturalizations" took place, including those of natives from Liberia and Sierra Leone. As a result of these practices, some residents of Senegal believe that three-fourths of the native "citizens" have acquired their status illegally.

Alarmed at the increase of "citizens" through this procedure, the Governor-General in 1922 asked the *Procureur-Général* to instruct the tribunals to issue these judgments only after the native applicant had gone before the Mohammedan Cadi and taken an oath on the Koran. This put an end to much falsehood inasmuch as according to tradition a native who violated an oath taken on the Koran would die. Angered at the government's ruling, different natives have repeatedly sent petitions to the Colonial Council, protesting against the delay of the courts in granting *jugements supplétifs;* and in 1924 the Council passed a resolution saying that the oath before the Cadi for this purpose was contrary to religion.[24]

The intense desire of the natives to obtain these judgments arises out of the fact, as we shall see, that such a judgment entitles them to citizenship which automatically reduces military service from three years to eighteen months and grants them other privileges of great practical importance.

In order to obtain these privileges for their children, it is the practice of a number of native women to come to Dakar for their confinements. The Dakar Government once proposed that to put an end to these various devices of increasing citizens, the right of citizenship should be limited to the descendants of those now on the electoral rolls.[25] Whatever its merits may be, the colonial deputies at Paris are probably strong enough to block the adoption of this proposal.

5. *The Senegal Deputy*

While the civil results of black citizenship in the four communes have been of great importance, the political results have been probably more interesting. Senegal is entitled, as one of the "old" colonies in the French Colonial Empire, to send a deputy to the Chamber of Deputies in Paris.[26]

[24] *Conseil Colonial,* 1924, p. 228; Cf. also the debate, *Ibid.,* December, 1918, p. 126.

[25] In 1912 the Reporter on the Colonial Budget and the Senegal deputy also agreed that those natives who had been on the voting list for a certain number of years should be recognized as French citizens; but that in the future only those descendants who renounced their personal status should be recognized as citizens. *Chambre des Députés,* December 19, 1912, pp. 3285, 3294.

[26] In 1918 the General Council of Senegal adopted a resolution asking that Senegal be given two deputies and one Senator in the French Parliament. In

It also has a General Council and a number of Municipal Councils patterned after similar institutions in France, the members of which are for the most part elected by citizens. Elsewhere, the French restrict the franchise to Europeans and natives who have assimilated European culture and who have become naturalized. In Senegal, as we have seen, the franchise is exercised by *originaires,* irrespective of education and culture. Because of their number, they now control all elections whether of the deputy or of the councillors. In 1914, there were about ten thousand voters in Senegal, of which only one thousand eight hundred were Europeans. In 1920 the total had increased to 16,013. In 1920, about half of the registered voters took part in the election for the Colonial Council. A little more than half (8,872 out of 16,003) voted for the deputy. Under the French system, voters are automatically registered by an Electoral Commission.[27] Consequently, this proportion of actual voters is much larger than if the system of personal registration followed in the United States prevailed.

Probably the most important election held in the four communes comes every four years for the deputy to represent the colony in the Chamber of Deputies. Until the election of 1914, the black voters of the four communes were content to elect a European as deputy. But the racial issue was raised in the campaign of 1914, when a Senegalese, M. Blaise Diagne, who had been in the employment of the government outside of Africa for the last ten years, returned and announced his candidacy upon a platform of complete equality between Europeans and blacks. The European candidates were about six in number, and while they together polled a majority of the votes, Diagne led the field. In the second election, held ten weeks later in accordance with the French electoral laws, Diagne again obtained a plurality and was declared elected.

Despite the fact that Diagne was a Sérère, he posed during his campaign as the friend of the Lebou people who were bitter against the government for having taken their land.[28] The Lebous are understood to have delivered to Diagne a block of 1800 votes; the Ouolofs, despite a traditional feud, joined the Lebous at Saint Louis in support of this candidate. It appears that the Moslem leaders or the marabouts, the natives irritated at the sanitary restrictions which the government had imposed, and the native "intellectuals" who called themselves the "Young Senegalese," most of

speaking in favor of this motion, a member said that "the present deputy never comes to our defence." *Conseil Général,* December, 1918, p. 147.

[27] Cf. Décret Organique of February 2, 1852, in a brochure, *Elections Législatives,* 1924, p. 33.

[28] Cf. Vol. I, p. 1024.

whom were government clerks who demanded the same pay as Europeans, aided Diagne's campaign.

The victory of this black candidate still further widened the growing gap between the native "subjects" who lived outside of the four communes and the native "citizens" within. The poor "subjects," who numbered a million souls and who paid the taxes, looked with envious eyes upon the eighty thousand inhabitants of an island of privilege. Laboring under obligations which did not weigh upon the "citizens," the subjects came to look with contempt upon native institutions. They wished to escape from the obligations connected with these institutions by becoming French citizens, a process which hastened the disintegration of tribal society, and hindered the economic development of the country.

Alarmed at this situation, the administration considered asking Diagne to resign by tempting him with a high office in the administration in France. But he was set on going to parliament where he outwitted their plans and even extended and solidified the privileges of the four communes by securing the passage of the 1915 and 1916 laws. In 1917, the French Government appointed him as Commissioner of the Republic in charge of conscription in West Africa—a position which gave him an equal status with the Governor-General.[29] This appointment led to the resignation of Governor-General Van Vollenhoven. On a propaganda tour, the wife of a European administrator was said to have wiped the dust from his shoes.[30]

Having acquired this prestige, it was a comparatively simple matter for Diagne to win the elections of 1919. In an election manifesto he appealed to "all the Senegalese democracy, to the different ethnic elements, whether Europeans or natives, who have equal rights since they perform equal duties."

In an appeal to his "Compatriots" of Europe he declared that "in inscribing the Declaration of the Rights of Man and of Citizens on the first page of the golden book of the Revolution of 1789, your fathers of the great Revolution swore that France would carry Justice, Law and Fraternity everywhere.

"Those of you who by essence and by origin, belong to Democracy, and you are numerous here, should not forsake the beautiful inheritance of which you are the heir, on the ground that you see in a native candidate, allied however to you by family bonds, a simple struggle between races."

As a result of these appeals, Diagne scored another victory by a vote of 7444 against 1252. It appears that native functionaries took a leading part in the campaign. At any rate, the Governor-General issued a cir-

[29] Cf. Vol. II, p. 9.

[30] *Conseil Général,* December, 1918, p. 148.

cular [31] stating that while functionaries could vote as any other citizens, they could not take part in a political campaign, since this would shake the confidence of the public in the impartiality of the administration.

In the 1924 election, Diagne's opponent was a European lawyer, a resident of Dakar. He fervently addressed political meetings of black voters, many of whom did not understand the language or the issues upon which he dwelt. In one of these meetings, the European candidate was reported to have said, "In the Cevennes where I was born, there were few men more educated than you, Senegalese, but they enjoy more rights than you. I who speak to you, I am not of a family really white; moreover, you can see the color in my face." Even this statement did not save him from defeat.

Originally, the European merchants of Dakar bitterly opposed Diagne's candidacy out of the fear that he would injure business interests.[32] But the merchants soon found that they could conciliate the deputy; and in a famous Agreement of Bordeaux, the Syndicate of Bordeaux merchants, who control most of the trade of Dakar, agreed to support Diagne in return for his defence of their interests in the Chamber of Deputies and his influence to secure several seats for Europeans friendly to the Syndicate on the Colonial and Municipal Councils of Senegal. It is reported that the Syndicate pays Diagne a very large retainer. In addition, he is a member of the Colonial Council, from which he receives a grant which was increased from thirty thousand francs in 1925 to sixty thousand francs a year in 1926. He receives a representation allowance of thirty thousand francs from the Municipal Council of Dakar where he is mayor.[33] It appears, therefore, that the deputy is well compensated for his efforts and that he serves European interests as loyally as black.[34] Consequently, he had no difficulty in being reelected to the Chamber in 1924, securing 6133 votes against 1891. Nevertheless, a number of the black intellectuals turned against him on the ground that he had sold out to the Europeans.

Election methods in these campaigns are modelled after those in France —black as well as white candidates adopt a French party label. In the first election, Diagne ran on a Unified Socialist ticket, but later changed to the Republican Socialist party to which group he adheres in the Chamber of Deputies. In Senegal, these party labels mean little. At present, the only division between the native voters is a personal one between the

[31] Circular 67, August 29, 1919.

[32] In 1914, they were charged with attempting to intimidate native voters by calling in the credit of Diagne's supporters. Cf. *Démocratie du Sénégal,* April 28, 1914.

[33] Cf. Vol. I, p. 958.

[34] Diagne has, however, aroused the opposition of a number of Senegal chiefs, cf. Vol. I, p. 977.

followers of M. Diagne and of M. Lamine Gueye, the only native lawyer in French West Africa. During the last few years, the elections in Senegal appear to have been conducted with honesty and to have been free from the abuses which a similar system has brought about in other French colonies, notably in Martinique.[35] French election laws are enforced by the administration. At the same time, ninety per cent of the voters are illiterate and it appears that they are instructed by native bosses how to vote. Election meetings are often so noisy that the speaker cannot make himself heard. It is the policy for one side occasionally to break up the meetings of the opposition; while the "subjects" who cannot vote frequently vent their spleen against their privileged brethren by throwing stones at orators addressing political rallies.

Obviously the natives of the four communes prize their citizenship because of the advantages which it confers. The presence of a deputy in the Chamber has also won for them privileges that they otherwise would probably not have attained. Whether or not the system is sound from the interests of the native population as a whole can be decided only after looking further into the political activities of the privileged caste.

[35] In 1900 a Frenchman wrote, in opposing the establishment of political representation in French Guinea, as follows: "Il ne semble donc pas désirable de voir se constituer, des corps électifs et une représentation politique qui sont, au Sénégal et ailleurs, la source et l'occasion d'abus très grands et de dangereux scandales. Les rapports parlementaires fourmillent de détails trop peu édifiants sur la manière dont se font les élections, pour qu'on ait le désir de ne pas voir le mal s'étendre plus loin. Donner le droit de suffrage aux noirs a été une faute dont les conséquences fâcheuses n'ont apparu que par la suite. Placés ainsi sur un pied d'égalité avec les blancs, les Ouolofs du Sénégal sont devenues d'une arrogance excessive et ridicule; de plus, le parti mulâtre, plus intelligent, mais peu circonspect, s'est trop souvent appuyé sur l'élément indigène pour créer des difficultés aux pouvoirs publics. N'est-ce pas d'ailleurs au cours de la période électorale de 1898 que les rues de Saint-Louis ont retenti du cri séditieux et stupéfiant de "A l'eaux les Français!" Aspe-Fleurimont, *La Guinée Française*, Paris, 1900, p. 11.

CHAPTER 58

THE "COMMUNES"

1. *The "Communes de Plein Exercice"*

DESIRING to give the citizens of the colony of Senegal the benefits of the institutions of France, the government endowed the two communes of Saint Louis and Gorée with local self-government in 1872,[1] a privilege which was later extended to Dakar and Rufisque. These "Communes de plein exercice," having an organization similar to that of the communes in France, possess local self-government to a certain degree. Each commune has an elected council. The Saint Louis and Dakar councils each have eighteen members, while the Rufisque council has sixteen. Elections, in which the list system of France is followed, are held every four years. Candidates of three or four different lists presented themselves in the last election in Dakar, which was won by a group called the Republican Union Diagne's party. The qualifications for a voter are the same as for a deputy. Each elector must show his electoral card at the pólls. Since the list system is used, and since most of the voters are illiterate, the inevitable tendency is to vote a straight ticket.

Before 1910, the voters, who are predominantly black, elected a majority of Europeans on these councils, but since that date the four councils have contained black majorities. On the Dakar Council, there are six Europeans. The week after the election, the council meets and elects a mayor from among its own members. All of the four communes now have black mayors. It appears that the mayors of the two most important communes have regarded their posts as sinecures. Following his election as deputy in 1924, M. Diagne ran for the Municipal Council of Dakar; and upon being elected he induced the members of the council to choose him as mayor. At present he spends practically all of his time in Paris, except for an occasional triumphal entry into Dakar. In the meantime, his duties in the municipality are performed by an assistant mayor, who is a European merchant.

Likewise the mayor of Saint Louis, M. Lamine Gueye, lives at Dakar—

[1] Decree of August 10, 1872. *Bulletin des Lois de la République Française,* Vol. 5, 1872, p. 397.

a day's journey away—where he practices law. The opinion of his compatriots in regard to his absence was illustrated in a resolution unanimously carried by the Saint Louis Council in October, 1925, inviting the mayor to take up his residence in Saint Louis so as to effectively exercise the duties of mayor. The author of the motion said: "We have become convinced that ever since the elections it is altogether impossible and even dangerous for the interests of the commune to have the mayor live in Dakar and only make a few and short appearances in Saint Louis." [2] In 1922 the government enacted a decree removing the mayor of Rufisque from office.[3]

The mayors are charged with the execution of laws and measures for the general security; the conservation of property; and other duties; and they are given the right to enact regulations or *arrêtés* in regard to local objects authorized by the law and subject to the approval of the Governor.[4]

A Municipal Council may deliberate on local property matters, the budget, taxation, etc.; its deliberations enter into force upon the approval of the Governor; it must be consulted upon a number of matters.[5]

For example, the mayor of Dakar approved (*arrêté*) a dog tax of twenty-five francs a year in 1924 in the following form, "In view of the deliberation of the Municipal Council at Dakar, in its session of November 20, 1924, approved by the Lieutenant-Governor of Senegal, December 4, 1924, the tax enters into force." [6] Sometimes the Lieutenant-Governor does this directly. Thus in 1925, the Lieutenant-Governor of Senegal issued an *arrêté* approving a deliberation of the Municipal Council of Saint Louis naming certain streets.[7]

2. *Local Finance*

Perhaps the greatest power of the Municipal Council is in regard to local finance. Each of these communes has a budget composed of a certain portion of the licenses and other taxes collected by the colonial government, and fees from certain courts.[8] Until 1924, the communes also collected an *octroi* tax as in France, but since this really amounted to an additional tax on imports, the Colonial Council abolished it in favor of an increased tax on patents or on business licenses. Within certain limits, the communes

[2] "Sur le Conflit de St. Louis," *L'Ouest Africain Français,* August 23, 1926.
[3] *Journal Officiel,* 1922, p. 664. He was later re-elected.
[4] Arts. 32-33, Decree of August 10, 1872.
[5] Arts. 38-45.
[6] *Journal Officiel du Sénégal,* 1924, p. 46.
[7] *Ibid.,* 1925, p. 219.
[8] The communes receive one-seventh of the "patent" or business licenses; the Full Communes receive the whole of the liquor licenses and market dues. Cf. *Budget Local du Sénégal,* 1926, p. 196, and Article 1 of the Arrêté portant Réglementation de la Compatibilité des Communes de Plein Exercise du Sénégal *Journal Officiel du Sénégal, cited,* September 11, 1924.

may impose certain rates. The total receipts of Saint Louis in 1926 amounted to about two million francs. The Rufisque budget, which is even larger, is composed as follows:

Municipal Revenue of Rufisique

1. Market dues, etc.	55,120 fr.
2. "Direct Contributions," 1/7 of the patent tax	210,000
3. Additional centimes to replace municipal *octroi*	832,812.75
4. Other licenses	17,000
5. Municipal Railway	706,000
6. Dog tax	300
7. Fines	100
8. Fees from registration	100
Total ordinary receipts	1,821,432.75
Extraordinary receipts (electric light, etc.)	368,100
	2,189,532.75

Following the example of the Colonial Council, the expenditures of the Municipal Council in the four communes are divided into two classes; obligatory, and optional. The Lieutenant-Governor of Senegal determines what expenses fall into each class.[9] The council's consent is necessary before optional expenditures may be made. Under the heading of obligatory expenditures, the commune of Rufisque expends about one hundred and thirty-two thousand francs on police, one hundred and eighty-one thousand francs primarily upon primary education, and about two hundred and forty-eight thousand francs upon general costs of administration. Other sums go to the maintenance of buildings. Into the category of optional expenditures fall such items as ninety-six thousand francs for street cleaning, two thousand five hundred francs for the maintenance of plantations, and two hundred and seven thousand francs for an electric light system. The obligatory expenditures total about seven hundred and fifty-nine thousand francs, while the optional expenditures amount to about 1,431,000 francs. This budget is drawn up annually by the mayor and then discussed and approved by the Municipal Council, which may increase the items. Before going into effect, the budget must be approved by the Lieutenant-Governor. If the mayor neglects to draw up the budget, the Lieutenant-Governor may do so.[10]

Until recently, it has been the practice of the government of Senegal to place the entire burden of education and of police upon the communes.

[9] In an *arrêté* of August 29, 1924, he listed eighteen different items as obligatory.

[10] After asking the mayor to perform his duty; Articles 10 and 11, *Arrêté* of August, 1924, Senegal.

But following protests against the weight of these burdens,[11] the government agreed that it was poor policy to allow the progress of education in the cities to depend upon the good-will and the resources of the Municipal Councils. Consequently, in 1924 it transferred from the communes to the colonial budget the expense of the transportation and salaries of European teachers while on leave, and it also assumed about half of the expense of the police. As a result of these changes, the communes, both Full and Mixed, were relieved of charges annually amounting to nine hundred thousand francs.[12]

The mayor is theoretically responsible for the administration of the municipality. He names municipal officials—a power which has, it appears, been exercised for "pork barrel" purposes.[13] The mayor frequently appoints European officials who work beside black compatriots, while he also employs European stenographers. In Dakar, about half of the municipal functionaries are Europeans—which is apparently due to Diagne's understanding with the European merchants.

In France the powers of a commune are considerably less than those of towns either in England or the United States. Consequently, the duties of local self-government in Senegal are less exacting than, for example, in Freetown. While the commune bears part of the expense of education and police, these activities are rigidly controlled by the central government. There are no municipal courts. All offenses are tried by French tribunals responsible to the *Procureur-Général.* Violations of the law are handled by a European commissioner of police responsible to the colonial authority. Taxes are assessed by a Service of Direct Contributions and collected by the government treasury which keeps the funds and writes checks only in accordance with the detailed vote of the municipal budget. Sanitation and public works are controlled by European doctors and engineers in theory responsible to the African mayor with whom they have had frequent conflicts. Actually, these officials take their orders from the central government. The leading activities of the communes as such relate to maintaining the registration system of births, deaths, and marriages—*"État civil"*—and the military bureau, which handles the conscription of French citizens. Despite the system of an African mayor and council, municipal government in French West Africa is, therefore, subject to strict European control.

[11] *Conseil Général,* 1918, p. 116.
[12] Cf. *Conseil Colonial,* October, 1924, p. 258.
[13] Cf. the charges against the native mayor of Saint Louis, "Sur le conflit de St. Louis," *L'Ouest Africain Français, cited.*

3. *The Imperial City of Dakar*

Recently, the powers of the municipality of Dakar have been even further curtailed. Dakar is probably the most important and certainly the most imposing city throughout the whole of central Africa. Its public buildings, its parks, and its cafés make it a replica of a European city. It is, in fact, the Paris of the tropics. The administration of any such city presents problems which would be difficult even for Europeans. They are doubly difficult for an African mayor and council, especially when the mayor spends most of his time in Europe. That the "Full Commune" system was tolerated as long as it was is due to the control which the central administration exercised over local government generally.

But because of the great importance of Dakar, the government enacted a decree on November 27, 1924, which created Dakar and its dependencies (which include Gorée and *bainlieues*) an Imperial city having a budget of its own which is annexed to the budget of the government of West Africa. This budget is composed of subventions from the colonial budget of Senegal, the communal budgets of Dakar and of Gorée, and the general budget of West Africa.[14] The city levies no taxes of its own, but simply receives a portion of the taxes levied by these other governments. Thus in 1926, the receipts of the Imperial city amounted to 22,500,000 francs, composed in part of a subsidy from the government-general of 4,374,000 francs, 5,317,000 francs from the colony of Senegal, and 1,043,000 francs from the communal budget of Dakar.

All government services in the District of Dakar which were normally under the Lieutenant-Governor of Senegal have been transferred to an administrator of Dakar who is responsible to the Governor-General for the administration of the area. He has charge of virtually all public works, sanitation, and education in the city.

In addition, a Commissioner of the port of Dakar controls this part of the city, which has also a budget of its own. Thus the Municipal Council of Dakar is now overshadowed by the Administrator of the District of Dakar and by the Port Commissioner who exercise the really vital duties of administration in what is really a European city. The history of the Four Full Communes of Senegal is the history of the Freetown Municipality.[15] In 1918, the Governor-General asked the Lieutenant-Governor of Senegal for an opinion as to the advisability of establishing eleven new Full Communes.[16] The General Council sent a commission to France to advocate this and other proposals. But later the government decided

[14] *Journal Officiel*, 1924, p. 773.
[15] Cf. Vol. I, p. 882.
[16] *Conseil Général*, 1911, p. 111.

not to proceed with this reform, at least for the time being, on the ground that the mayor in a Full Commune "does not always have the freedom of action toward his electors which the importance of his duties sometimes requires."[17]

While the government has thus attempted to restrict the powers of this type of organization—the Full Communes—it has nevertheless extended the principle of consultative machinery in a modified form, through the Mixed Communes, which will now be discussed.

4. *The Mixed Communes*

This is a form of government which was authorized in a decree of 1891 [18] and is headed by a mayor appointed by the Governor from among the administrators instead of being elected as in the Four Communes. He is assisted by a Municipal Commission. Upon the recommendation of the Lieutenant-Governor the Governor-General may establish this form of organization anywhere in West Africa. To receive such an organization, a locality must possess resources which will enable it to balance its budget.

These Mixed Communes are divided into three classes according to the nature of the Municipal Commission the government sees fit to create, as follows:

1. The First Degree Communes have Municipal Commissions the members of which are appointed by the Lieutenant-Governor in Council.
2. The Second Degree Communes have Municipal Commissions the members of which are elected by a restricted suffrage.
3. The Third Degree Communes have Municipal Commissions the members of which are elected by universal suffrage.

The members of these commissions, who serve for four years, must have a fluent knowledge of French. The commissions in the First Degree communes are composed of French citizens and French subjects in equal numbers. They are chosen by the Lieutenant-Governor from a list made up by the local administrator composed of all French citizens and those leading native subjects who are (a) traders paying a license of at least two hundred francs a year, (b) real estate owners, or (c) other proprietors nominated by the administrator. If a native complains that he has been left off the list, the Lieutenant-Governor in Council decides the matter, subject to appeal to the *Conseil du Contentieux*—the administrative court, composed of a majority of government officials.

[17] Address of the Governor-General to the Council of Government, *Journal Officiel*, 1921, p. 74.
[18] Decree of December 1, 1891.

The members of the Second Degree Commissions are elected by the citizens and the subjects on the list selected in accordance with the preceding paragraph—*i.e.* by a restricted suffrage.

The members of the Third Degree Commissions are elected by an electoral college of all the French citizens and subjects of twenty-one years of age living in the commune—*i.e.* by a universal suffrage.

The three types of commune differ therefore in respect of their composition.[19]

The commercial centers of West Africa have been given one or the other of these forms of government, "according to the degree of their social development and also of the importance of their social interest." The Governor-General has declared: "Certain communes may successively pass through all of the degrees of administrative initiative, learning in each step the management of public affairs, acquiring a sense of their personality, becoming conscious of their rôle, of their responsibility and of their rights in colonial society. This progressive education, of which the last stage will be the large autonomy of the *Commune de Plein Exercice* (the status of Dakar and Saint Louis), will make it possible to extend the benefit of municipal institutions to units at different stages of evolution which, under previous legislation, would have been deprived of these benefits by reason of the extensive administrative capacity which the exercise of these functions required. This apprenticeship in public life and in the duties which it imposes seems to me to constitute the most rational and sensible political machinery for our African populations, which it is our duty to associate in an ever increasing measure in the management of their own affairs." [20]

This is a good statement of the aim of French policy: the gradual association of natives with the French Administration in accordance with the progress of native education and experience. The goal set by the Governor-General for these urban centers in West Africa is the Full Commune such as already exists in the four leading communes of Senegal. But it is doubtful whether the government, in view of past experience, will establish any such communes in the immediate future.[21]

So far there have been no Mixed Communes in West Africa of the third degree—that is, having commissions elected by universal suffrage. There are twenty-three communes of the second and first degrees—*i.e.* having commissions the members of which were either appointed by the Governor or elected by the restricted suffrage of citizens and subjects.

[19] Decree of December 4, 1920; *Arrêté* of January 16, 1924, *Journal Officiel*, 1921, p. 91.

[20] Circular of February 12, 1921; *Journal Officiel*, 1921, p. 176.

[21] Cf. Vol. I, p. 962.

Occasionally the government elevates a commune of the first degree to the position of second degree.

In establishing the communes of first degree, it is customary for the Governor to appoint eight or twelve members to the commissions, half of whom are citizens and half subjects.[22]

Strangely enough, in view of the purpose of these distinctions, the powers of the three grades of commissions in the Mixed Communes are exactly the same. In fact, they are identical to the powers of the *Full Communes* (art. 28). In addition to their power of deliberation over matters submitted to them by the mayor, they may give their opinion on all the questions similarly submitted by the administration. "Any deliberation on a subject foreign to their powers is *nulle de plein droit.*" The Lieutenant-Governor in Council may veto deliberations.[23]

All of these communes have control over the local Estimates. Municipal receipts are composed of the returns from local property, additional centime taxes, and a proportion of taxes collected in the municipality by the colonial government. Some communes are also authorized by the Governor-General to impose dog, carriage, and property taxes. In some cases they have relied upon subventions from the Colony to balance the budget. The Lieutenant-Governor fixes the category of obligatory expenses which, in the case of Bamako, include the expense of maintaining the local administration, the sanitary services, cemeteries, markets, and buildings.[24]

The remaining expenditures are optional with the council. The chief duties of the commune are the collection of local revenue, and the administration of sewerage and lighting systems.

The real responsibility for the administration of the commune rests not so much upon the commission as upon the mayor. Unlike the mayor of a Full Commune, the mayor of a Mixed Commune is an administrative official appointed by the government. He is "under the control of the superior administration." It is his duty to execute the laws and regulations relating to police, hygiene, public works, conservation, and administration of property. He controls revenue and executes the budget, being assisted by a European *receveur.* He also has power to make ordinances (*arrêtés*) in regard to measures entrusted to him. For example, in 1924 the Administrator-Mayor issued an *arrêté* which, when approved by the Lieutenant-Governor, carried into effect a deliberation of the Municipal Commission of Kaolock in regard to burial lots in the municipal

[22] Cf. the *arrêtés* establishing such communes for Porto Novo and Bamako, *Journal Officiel, cited,* 1922, pp. 22, 24.

[23] Ch. V, *Arrêté* of January 16, 1921, *Journal Officiel,* 1921, p. 93.

[24] Article 6, *Arrêté* of December 30, 1921, *Journal Officiel,* 1922, p. 25.

cemetery. In the same year, the Administrator-Mayor of Kaolock issued an *arrêté* regulating bakeries, which had not apparently been approved by the Municipal Commission; the Administrator-Mayor of the Mixed Commune of Ziguinchor likewise issued *arrêtés* in regard to sanitation, apparently independently of the Commission.[25] The Lieutenant-Governor names all communal employees upon the nomination of the administrator, which prevents the Spoils System found in the Four Communes.

As institutions where natives and Europeans may air their grievances, these councils serve a useful purpose. The Municipal Commissions in Senegal frequently send to the Colonial Council petitions on various subjects. But under the existing system, a commission chosen by universal suffrage has no more power than an appointed commission. Neither has any real responsibility, nor any real control over the administration.

[25] *Journal Officiel du Sénégal,* 1925, pp. 139, 220, 236, 237.

CHAPTER 59

THE COLONIAL COUNCIL

Between 1890 and 1920 the territory of Senegal was divided between the Territory Under Direct Administration, and the Protectorate.[1] In 1920 the former territory, which included the European centers, contained a population of about one hundred and seventy-five thousand, including the population of Dakar which itself contains about thirty thousand natives and twenty-five hundred Europeans. The remainder of the territory—the protectorate—had a population of about a million and a half.

Over both the direct territory and the protectorate, a Lieutenant-Governor held sway. In the administration of the protectorate, he was assisted by a Council of Administration, such as is found in the ordinary French colony, which was composed of the members of his Privy Council (officials) and two appointed natives. In the administration of the direct territory he was assisted by a Privy Council and a body, called the General Council, copied after the departmental institutions of France.[2]

1. *The General Council, 1879-1920*

Established in 1879, the General Council [3] came to be composed of twenty members, all of whom were elected by French citizens living in the Territory under Direct Administration. Inasmuch as the *originaires* could vote, the majority of these twenty members soon came to be black. This Council met at least once a year, and it had important powers of a deliberative and of an advisory nature which will be discussed in connection with its successor, the Colonial Council.

When the Council was first established, there was a single budget amounting to about ten million francs for Senegal as a whole. Since the council was required to vote this budget, and since it could hold up optional expenses, it exercised control over all of the administrative activ-

[1] Cf. Vol. I, p. 913.

[2] For two general studies Cf. J. P. Boulard, *Étude Juridique et Critique des Conseils Généraux des Colonies françaises,* Paris, 1902; A. René-Boisneuf, *Manuel du Conseiller Général des Colonies,* Paris, 1922. Both of these books devote most of their space to the Councils in the "old" colonies in contrast to Senegal.

[3] Decree of February 4, 1879, *Bulletin des Lois de la République Française,* 1879, Vol. 18, p. 549.

ities of the Senegal Government. The division of Senegal into the direct territory and the protectorate in 1890 led to the establishment of two budgets in 1892, which reduced the powers of the General Council to the control of the budget for the direct territory, fed largely by customs duties. This source of revenue was still further reduced by the establishment of the budget of the General Government of the Federation.[4]

So strongly did the General Council feel that its control over the government had been shaken by the establishment of two separate budgets, that it attacked the legality of the *arrêté* disannexing the Protectorate before the Council of State. In 1898, this body ruled, however, that the council could not prevent the government from exercising its discretion in this manner.[5] The General Council had argued that the "disannexation" of territory was the same as a cession of territory which could not take place without the consent of Parliament. The Council also unsuccessfully attacked the validity of the decree establishing the Federation.[6] The financial resources of the General Council came to be so limited that it was periodically unable to balance its budget. The Lieutenant-Governor finally proposed to transfer the cost of government services which served both sections to the protectorate budget, which was supported by native taxes. The General Council resented such a transfer simply because it thereby lost its financial control over the administration. In order to retain this control, the General Council voted credits for these services in 1917, which increased the expenditures of its budget from 2,600,000 to 5,450,000 francs,[7] thus incurring a deficit of 870,000 francs which it proposed should be met by a subsidy from the general budget.

The representative of the administration protested that the council had no power to vote expenditures which were not initiated by the Governor. In reply, the President of the Council said that the administration had "preferred to escape from our control by taking away from the vote of an elective assembly . . . the expenses which are legally included in the budget of the country under Direct Administration. . . ."[8]

Declaring that the action of the council was unconstitutional, the Governor-General promulgated the original draft budget submitted to the Council by the Lieutenant-Governor in so far as its obligatory expenses were concerned.[9] He also transferred part of the administrative expenses of

[4] Cf. Vol. I, p. 934.
[5] "Conseil Général du Senegal," *Recueil des Arrêts du Conseil d'État.* 1898, p. 233.
[6] Cf. Vol. I, p. 933.
[7] *Conseil Général,* Session Ordinaire du Novembre, 1917, p. 256.
[8] *Ibid.,* p. 260.
[9] The budget was promulgated at a figure of 2,381,700 francs. *Journal Officiel,* 1917, p. 15. The legal questions arising out of this action discussed on p.

the direct territory to the budget of the protectorate. The General Council attacked the validity of this action before the Council of State who, in a judgment handed down in 1922, declared that the action of the Governor violated the provisions of the finance law of April 13, 1900, which provided that administrative expenditures had to be submitted to the approval of the General Council.[10]

In 1918 the General Council felt so keenly the efforts of the general government at Dakar to reduce its importance that it rejected the budget altogether.[11] During this period, the Governor-General and the Council also came into conflict over the Governor-General's veto of certain postal rates increased by the Council, and over his transfer of the revenues derived from the water services of Dakar from the Council's budget to the federal government as well as other revenues. The Council attacked both of these acts before the Council of State.[12]

In view of the curtailment of its powers, especially over finance, the members demanded that the jurisdiction of the council be extended to include the whole of Senegal. On the other hand, the government was becoming disturbed at the domination of the Council by the black inhabitants of the four communes. It did not wish to extend the authority of the Council over the protectorate until the basis of representation was extended to include the territory as a whole.

2. *The Colonial Council*

As early as 1906, the French officials of Senegal suggested changes in the General Council. In 1909, a definite project was drawn up, but nothing came of it, apparently because the Minister of Colonies wished to give the Council greater power than the Governor-General believed it should have. While the World War silenced all projects of reform, the government brought about a fundamental reform in the decree of December 4, 1920. This decree reunited the two sections of the territory into

[10] *Conseil d'État,* March 10, 1922, *Recueil,* 1922, p. 72.

[11] At this time the Council sent the following cablegram to the Minister of Colonies at Paris:

"Conseil Général refusa voter projet budget illégalement établi et privant Colonie taxes votées par elle et perçues sur son territoire. Ne pouvons adopter nouvelles taxes proposées qui seraient bien au-dessus des forces financières du contribuable et qui amèneraient la ruine de la Colonie. Vous prions intervenir pour rémedier et empêcher désastre financier. Rapport suit." *Conseil Général,* December, 1918, p. 270.

[12] In a decision of March 10, 1922, the Council declared that the Lieutenant-Governor, although his action had been approved by the Governor-General, had exceeded his powers in modifying, without the authority of the General Council, the postal rates. *Recueil,* 1922, p. 70. It upheld, however, the transfer of the water revenue, on the ground that the Financial law of 1800 had not given to the Council a monopoly of revenue within the territory under its jurisdiction.

the single colony of Senegal, under the direction of a Lieutenant-Governor, assisted by the successor to the General Council, called the Colonial Council. In order to give representation to the former protectorate and to recognize native authority, the government provided that in addition to twenty members elected by French citizens, the Council should include twenty native chiefs elected by the provincial and cantonal chiefs of the colony. Thus the Council would be composed of a total of forty members, half of whom would represent the French citizens and the other half the chiefs. In 1925, the number of citizen members was later increased to twenty-four and the number of chiefs reduced to sixteen, for reasons discussed below.

For the purpose of electing the members, the colony is divided into four districts. The first district, lying along the Senegal River, is entitled to ten members; the second district, lying along the Dakar-Saint Louis Railway, is entitled to sixteen members; the third district, in the region of Sine-Saloum, is entitled to twelve members; and the fourth district of Casamance is entitled to two members.[13] A proportionate number in each district is elected by the French citizens at the polls; the other members are elected by the chiefs in a meeting called by the administrator. Members of the Council must have a fluent knowledge of the French language.[14]

This Council meets at least once a year. The Governor-General of West Africa may suspend its session for the period of one month, but he must at once report such action to the Minister of Colonies. Upon the proposal of the Lieutenant-Governor of Senegal and of the Governor-General, the Council may be dissolved by decree, but a new election must be held within three months. Meanwhile, the powers of the Colonial Council are exercised by the Lieutenant-Governor and his Privy Council.

3. *Powers*

The powers of the Colonial Council are similar to those of the old General Council.[15] They are classified as follows: (1) the power to give advice, (2) the power to legislate (*statuer*) on certain subjects, (3) the power to "deliberate" on other subjects, (4) the power to approve the budget.

1. The Council may express its advice (*avis*) on questions submitted to it by the Lieutenant-Governor. It must be consulted on the creation

[13] Decree of December 4, 1920, *Journal Officiel*, 1921, p. 83.

[14] In case a member's knowledge of French is challenged, he is examined by a committee of examiners appointed by the Council of State in Paris.

[15] The resolutions of the old council were, however, annulled by decree, while now the resolutions may be annulled by *arrêtés* of the Governor-General.

of "communes."[16] It may express its opinions (*vœux*) on different subjects interesting the administration of Senegal.

2. It may legislate (*statuer*) on thirteen different subjects which are confined largely to matters affecting the disposition and management of public property, the acceptance or refusal of gifts to the colony, the classification of roads, the contribution of the colony to work being executed by the State, and of interest to the colony. The decisions of the Council in regard to these matters enter into effect at the end of two months if the Lieutenant-Governor has not asked the Governor-General to veto them for "excess of power, or because they violate existing laws or regulations."[17] In practice, these powers are not, apparently, of great importance.

3. The power of deliberation extends to five different subjects, the most important one of which is in regard to the assessment, rate, and collection of taxes.[18] In contrast to the first type of decisions which enter into effect unless expressly vetoed within two months, the *délibérations* of the council on these subjects enter into force only upon the approval of the Governor-General in Council of Government.[19] In case he declines to approve the tax deliberations of the Council he is obliged to ask it to deliberate again. Until a new tax is approved by the Governor-General, the old taxes may be collected.[20] Finally the Colonial Council has power to pass on the budget of the whole colony. A decree of July 5, 1921, combined into a single budget the former budgets of the protectorate and the direct territory.[21]

4. The power over the budget. The local budget of Senegal is drawn up by the Lieutenant-Governor who alone has the initiative in proposing expenditures.[22] Expenditures are classified as obligatory and optional.

The obligatory expenses are of five types: (1) debts; (2) the expenses of the Lieutenant-Governor and his secretariat; (3) the expenses of the

[16] Cf. Vol. I, p. 963.

[17] "Les délibérations sur ces matières sont definitives et deviennent exécutoires si, dans le délai de deux mois, à partir de la clôture de la session, le Lieutenant-Gouverneur n'en a pas demandé l'annulation pour excès de pourvoir, pour violation des lois et des réglements ayant force de loi." Article 42, Decree of December 4, 1920. See Appendix.

[18] The other subjects are: the conditions of exploitation by the colony of works destined to public use and the rates to be collected, the creation, maintenance and exploitation of non-communal markets, the establishment of ferry boats and the rates to be collected, the acquisition and alienation, etc., of public property.

[19] Cf. Vol. I, p. 928.

[20] The Council also deliberates upon loans to be contracted by the colony and upon the acceptance of legacies subject to the approval "par décret en Conseil d'État."

[21] *Journal Officiel*, 1921, p. 600.

[22] Cf. Article 47, the *Conseil d'État*, (5) of the Decree of December 4, 1920, and the Decision of April 11, 1919. *Recueil*, 1919, p. 86.

departmental services in the colony organized by decree or by the Governor-General; (4) secret funds as fixed by the Governor-General; (5) subventions to the State fixed by law, etc.

The remaining expenditures are optional or *facultative*. .After drafting the budget, the Lieutenant-Governor submits it to the Colonial Council. If the Council fails to include in the budget the obligatory expenditures, the Lieutenant-Governor in Privy Council may include these expenses by taking the money out of the optional expenditures voted by the Council. The Council is free to accept or reject the optional expenditures proposed by the Governor. If the Council does not meet or if it adjourns before voting the budget, the Lieutenant-Governor may *d'office* submit the budget to the Governor-General for approval.

By this means, the Council has control over part of this budget but it cannot obstruct the operation of the fundamental services of the colony. The Lieutenant-Governor may submit supplementary credits to the Council in a special session or, if the Council cannot meet, the Lieutenant-Governor may, after consulting the Permanent Commission of the Council, submit them to the Governor-General for authorization subject to submission to the Colonial Council at the next session.

In the Senegal budget for 1926, the obligatory expenses came to about 35,700,000 francs, while the optional expenses came to 45,000,000 francs. A large part of the latter expense was in connection with public works, agriculture, veterinary service, maintenance of public roads, and buildings, and construction of new public buildings. While the expenses for maintaining the central administration are obligatory, certain items, such as appropriations for magazines and books for the library, are optional. Likewise expenditures on telephones and fans in a government office are optional, and may therefore be controlled by the Council.

The determination as to whether a given expenditure falls within the range of obligatory expenses depends in the first instance upon the Lieutenant-Governor who prepares the Estimates. It does not appear that his judgment has been challenged by the Colonial Council. As the above figures would indicate, the Governor has already recognized that more than half of the expenditures of the colony are optional and may therefore be withheld by the Council.

It appears that while the establishment of a school or the erection of a building is optional, its maintenance, once authorized, is obligatory. The Council frequently rejects proposed optional expenditures. In 1923, it voted down a proposal of one hundred and thirty thousand francs for two houses for officials in Dakar and asked that the money be used to construct two new dispensaries. It also reduced the appropriation for a new

post office at Podor [23] from 175,000 to 75,000 francs and it has rejected taxes submitted by the government.

On the other hand, the Council insists that it may reduce obligatory expenditures. This question arose in 1922. In debating the vote for the Posts and Telegraph Department of the government, the Council rejected a credit of thirty-two thousand francs for the Director of Posts on the ground that the service was inefficient and that it had opened letters suspected of having political importance.[24] Instead it voted a credit of 25,000 francs for an Inspector. The representative of the administration at the Council protested that the salary of a government official was an obligatory expense. In reply, the President (a native) of the Council declared that the Council could reduce both obligatory and optional expenses, and if the administration did not like the reduction of the obligatory expense, it could restore the sums by cutting down on some other part of the budget, in accordance with the provisions of the 1920 decree. In one session, the Council suppressed several credits for several government pilots; while it asked that instead of two agricultural engineers, six *agents de culture* should be employed. It also suppressed the position of chief printer.[25]

While the government may legally restore these items, it can do so only by deducting the money from the optional expenses voted by the Council and which the government may wish to retain. Consequently, in many cases it simply accepts the action of the Council in regard to obligatory expenses. This procedure has thus greatly strengthened the financial powers of the Colonial Council. The government may not impose new taxes and it virtually cannot incur new expenses without its consent.

In November, 1921, the government consolidated all the various existing taxes in a single project which was laid before the Council for approval. The Council took advantage of the opportunity to reduce the personal tax and certain kinds of licenses on the ground that they weighed too heavily upon the population. The result was that the government was obliged to decrease its proposed expenditures some 3,158,000 francs.[26]

Another provision of the constitution of the Colonial Council which has been even more difficult to interpret and to enforce is Article 40 which declares, "any deliberation or resolution in regard to political matters is forbidden." While any criticism of the administration is in one sense political, the administration has not been able to enforce this interpretation upon the Council. Thus in 1921, one member charged that the administra-

[23] *Conseil Colonial,* October, 1923, pp. 250, 254.

[24] Cf. the criticisms of this service. *Ibid.,* November, 1921, p. 91; December, 1921, p. 321.

[25] *Ibid.,* December, 1921, pp. 332, 337, 341. [26] *Ibid.,* November, 1921, p. 21.

tion favored the big business man rather than the small trader—which led to a protest from the representative of the administration. In reply, the member said: ". . . The Administration has no right to prevent us from saying what we wish in the midst of this Assembly. . . . Senegalese and French for centuries, we have the right to hold the Administration accountable for what it does in this Colony and of distinctions which it has not ceased to introduce between different elements in the population." This led the representative of the government to say that the powers of the Assembly were strictly limited to the decree of 1920—the Council should not forget that it was not a political but an administrative assembly. The President of the Council declared, however, that even if the assembly was not a political body, "each time the occasion arose to criticise the Administration, we have the power to do so. . . ." [27] The prohibition of "political acts" was worthless.

The administration was no more successful in prohibiting criticism on this ground in the controversey over the chiefs.[28] While the financial powers of the Colonial Council are of the greatest importance in themselves,[29] they may be used by members of the Council, dominated by blacks, to criticize the work of government departments. In one instance the President of the Council referred to the "very elegant report" of the head of the Postal Service "from which we have learned nothing." [30]

Most of the "deliberations" of the Council relate to finance. To become effective, they must receive the approval of the Governor-General.[31]

It is very seldom that the Council exercises its power to legislate (*statuer*). In other words, most of its acts fall into the category which require the definite approval of the Governor-General before they become effective.

The Council also emits many *vœux* or resolutions expressing opinion in regard to government policies, some of which the government adopts. In many cases, natives send petitions to the Council with their grievances which are sent to committees and some of which form the object of a *vœu*. The Council sometimes agrees to increase taxes only on the understanding that the money shall go to definite purposes. Thus in 1924, the Council agreed to increase the poll tax one franc on the understanding that the funds should go to increasing the salaries of chiefs, to the establishment

[27] *Conseil Colonial,* August 21, pp. 55, ff. [28] Cf. Vol. I, p. 976.

[29] The procedure of the Council is to discuss new tax proposals before discussing the budget. By this means the Council prevents the government from placing before it an accomplished fact since if the Council does not vote the new taxes it may thereafter reduce the Estimates to make up the difference.

[30] *Ibid.,* p. 167.

[31] Cf. the *Arrêtés* of December 31, 1922, approving twenty-three deliberations of the Council. *Journal Officiel,* 1923, pp. 40 ff.

of a regular mail service between Dakar and Ziguinchor, and to the construction of schools and dispensaries.

4. *The Council at Work*

The Colonial Council meets in a Council Chamber overlooking the Senegal River at Saint Louis. At the beginning of the session, the Governor appears and makes an address surveying the progress of Senegal and making suggestions for the future. He then withdraws and leaves the interests of the government to be served by an official called the "Representative of the Administration." Of the forty members of the Council there are eight European and two Creole members. The rest are blacks. The Europeans are distinctly in a minority. As we have seen, half of the Council is composed of chiefs while the other half are elected citizens.

The Council elects its president, a vice-president and a secretary from among the citizen members, who are usually blacks. The other vice-president and secretary are elected from among the chiefs.[32] The president and secretaries sit upon a platform behind long tables, while below, two European secretaries, administrative officials, take down the proceedings in writing.

The Council has a number of standing committees, the most important of which is the finance committee upon which chiefs and citizens are both represented. The Council also elects a Permanent Commission of eight members, four from the citizens and four from the chiefs, which meets when the Council is not in session.[33]

Any one wishing to put an item on the agenda sends it to the president, and if the Council decides that it should be discussed, it is sent to a commission. Following the report of this commission, a debate on the principle of the proposition takes place which is followed by a second debate on the articles. When the Council expresses an opinion where it has no power to act, it says, *"Le Conseil est d'avis."* In matters over which it has power to act it says, *"Le Conseil accepte"* or *"Le Conseil n'accepte pas."*

The citizen-members sit on one side of the house while the chiefs, most of whom are dressed in the flowing robes which characterize the Moslem peoples, sit on the opposite side behind the representative of the administration. The Council has the appearance of a parliament with the repre-

[32] *Réglement Intérieur du Conseil Colonial,* Chap. II, 1921.

[33] Arts, 55-65, Decree of December 4, 1920. At the end of each session, the Council delegates a number of duties to the Permanent Commission, one of which is as follows: "Accomplissement de tous actes de protestations et pourvoir au Conseil d'État qu'elle jugera nécessaire, à raison des actes de l'Administration qui lui paraitrait excéder ses pouvoirs ou compromettre l'interêt de la colonie, notamment contre tous arrêtés ou décrets d'annulation de délibérations du Conseil. . . ." *Conseil Colonial, October,* 1924, p. 512.

sentative of the administration as prime minister and the chiefs as the government party. While the chiefs are in theory elected, the general feeling is that they are pretty well hand-picked by administrators. The chiefs say little during the sessions. It is doubtful whether many of them really follow the debate, partly because of their lack of knowledge of French. Despite the fact that to be eligible for membership in the Council one must "know" French, few of them, who associate with Europeans only occasionally, have acquired a fluent use of the language. As long as the Ouolof language is barred from the assembly, the chiefs will probably play a subordinate part in debates.

5. *Chiefs v. Citizens*

Since the establishment of the Council in 1920, the chiefs have consistently voted with the government. Although the citizen-members have opposed the increase of native taxes and prestations, the chiefs have supported such increases [34] partly because their tax rebates are thereby increased. The chiefs supported the government in its attempt to secure the adoption of the *Droit Civique* [35]—a measure which the citizen-members defeated. A number of members assert that the government instructs the chiefs how to vote on propositions.

In view of the control which the government came to exercise over the chiefs, the reform of 1920 was not received with enthusiasm by the *originaires* of the four communes. This decree virtually converted the old Council which had an overwhelming unofficial predominance into a Council having an official majority. While citizens equalled the chiefs in number, the chiefs were more regular in attendance and voted more solidly than the citizens. Consequently, the government could usually be sure not only of a quorum but of a majority. Moreover, the exercise of its powers was subject to closer control than in the past because the Governor-General could now veto its deliberations, whereas formerly this power had been reserved to the more remote Minister of Colonies.

The division of the chiefs and citizens was illustrated in 1921 when a division arose over a debate in which the citizen-members severely criticized the native policy of the government.[36] When the Representative of the Administration withdrew from the assembly as a result of this criticism a representative of the chiefs arose and read a declaration in the Ouolof language in which he declared: "The presence of the chiefs is superfluous when the Representative of the Administration has judged it necessary to withdraw. We quit the session." At this statement there was,

[34] *Conseil Colonial,* November, 1922.
[35] Cf. Vol. I, p. 979.
[36] *Ibid.,* August, 1921, p. 84. Cf. Vol. I, p. 1040.

according to the Minutes, a "great tumult." All those chiefs who declined to withdraw were reproached as being "unworthy men." [37]

At the next session in 1922 during the debate on the thirty thousand franc allowance to M. Diagne—the Senegal Deputy—the chiefs demanded that the sum be reduced and that a delegate be appointed to represent their interests. It appears that some chiefs were particularly angry because Diagne had declined to receive them on the occasion of their recent visit to Paris. The friends of Diagne, on the other hand, blamed the government which, they said, had not informed Diagne of the proposed visit. At this criticism, the Representative of the Administration arose and read a declaration making "all reserves" and asking the Council to turn from the debate to the work on the agenda.[38]

An open break between the two elements also occurred over the government proposal to increase the registration taxes which applied only to the communes. Despite the adverse report by a special commission, it was carried in the Council by a vote of seventeen to fifteen. As a result of the death of a citizen-member, the citizens were in a permanent minority and the measure was carried by the chiefs. In view of the great independence with which the General Council had exercised its power over finance, the citizens resented particularly the increase of taxes by what really was a government party. Consequently, after an attempt at conciliation had been made, the elected members left the Council Hall in a body.[39] The next day, the citizen-members returned and read a declaration stating that the registration taxes were of concern only to the inhabitants of the cities, the great majority of whom were citizens and not subjects, and that the effect of the government proposal, carried by "subject" members from the country, would be to reduce Senegal to the level of the colonies which the Senegalese had conquered for the French. In view of the fact that the chiefs had acted as if they had scored a victory over the citizens, the citizens declared that they would decline to vote any of these taxes and they stated that the chiefs, in their absence, had no moral right to vote the budget. Following this declaration, the elected members withdrew from the hall. The second vice-president, a chief, then took the chair and declared that a quorum no longer existed. But according to Article 35 of the 1920 decree, the members present at a second consecutive meeting at which there was no quorum, constitute a quorum regardless of the number present. Consequently, the chiefs adjourned until the next day when they adopted a number of government proposals. On December 3, 1922, they adopted the budget of 1923. The Council closed its session with a declaration of

[37] *Conseil Colonial,* p. 85.
[38] *Ibid.,* November, 1922, p. 59.
[39] *Ibid.,* November, 1922, p. 143.

the chiefs protesting against the statement that they had been conquered by the Four Communes and stating that they represented eight-tenths of the population of the colony.[40] Thus the stormiest session of the Colonial Council came to an end.

But during the next year, the citizen-members on the Permanent Commission of the Colonial Council declined to sit—thus making a quorum impossible—and consequently, since the law obliged the government to consult the commission on a number of matters before it could act, a deadlock occurred. To remove this deadlock, the government agreed to withdraw the objectionable registration tax in the session of the Council in October, 1923.

Back of this controversy was a feeling of personal hostility on the part of the citizen-members towards Governor-General Merlin because of his attempts to cut down the powers of Senegal *vis-à-vis* the Federation of West Africa.[41]

It was he who had drafted the decree of 1920 which gave the government a virtual majority in the Council. All of these considerations led the citizen-members to oppose the propositions of the Lieutenant-Governor when made, as the Council believed, at the request of the Governor-General.[42]

The situation was relieved by the appointment of a new Governor-General in 1924 and by the enactment of a decree in 1925 reducing the number of chiefs on the Colonial Council from twenty to sixteen and increasing the number of citizen-members to twenty-four.[43] It is now impossible for the government to dominate the vote.

For a period a truce between the government and the citizens prevailed. But it was again broken in June, 1925, by the refusal of the citizens to vote the *Droit Civique.*

For several years, the Colonial Council increased local taxation—the budget was increased from forty million to eighty million francs in two years—increases requested in order to carry out the Senegal *plan de campagne.* But the demands of the Governor grew with the depreciation of the franc at home. In June, 1926, he asked the Senegal Council to impose upon the people of the colony, natives as well as Europeans, a *Droit Civique,* ranging from two to five francs, modelled after the tax just voted at home by the French Parliament. The Governor urged the

[40] *Conseil Colonial,* November, 1922, p. 223. [41] Cf. Vol. I, p. 932.

[42] When M. Merlin went home in 1922, a member of the Colonial Council introduced a motion expressing the hope that the Governor-General upon his return would follow the policy of the *ad interim* official. But the Representative of the Administration asked the Council to reject the motion because it implied a criticism of the Governor-General. *Conseil Colonial,* 1922, p. 129.

[43] Article 6, Decree of March 30, 1925. Appendix, Vol. II, p. 168.

adoption of this tax as an "aid to the *métropole*" and to demonstrate the patriotism of the *"enfants de France d'outre mer"*—the argument which is used in support of conscription.[44] The money was, however, to be spent on public works in the colony. The Finance Commission to which this project was first referred pronounced unanimously, except for the chiefs, against the measure. In the open debate, members declared that the limit had been reached in the burden which the natives could carry. There was, moreover, a difference between France and Senegal. France had a deficit while Senegal had some forty-five million francs in its *Caisse de Réserve*. Instead of expending the money raised by taxes, the government had accumulated it in this reserve where it gradually depreciated in value with the fall of the franc, so that there was little to show for the efforts of the natives. Natives severely criticized the public works department of the government for its failure to show greater results. Other members pointed out that it was illogical to impose a *Droit Civique* upon natives who were not citizens but subjects of France. The Council closed the debate by a vote which defeated the tax twenty to fifteen—the tax being supported only by the chiefs.[45]

Nevertheless, the Council agreed to vote, as did other colonies, a "Voluntary Contribution" of a million francs to help France in her struggle against the decline of the franc. These sums were paid directly to the home government.[46]

6. *Conclusions as to the Council*

The members of the Colonial Council of Senegal have more power than the unofficial members of any other consultative assembly in Africa, including the Legislative Councils found in British territory. They can block the imposition of new taxes and withhold about half the expenditures of the government.

The Colonial Council may thus deadlock the efforts of the administration to carry out a development program. On the other hand, the Council has no direct means of getting rid of the administration, since it cannot hold up obligatory expenditures. Its antagonism towards M. Merlin may have had something to do with his promotion to Indo-China. But this means of redress is uncertain and at the best slow. In other words, the Colonial Council presents all the disadvantages, from the standpoint of political science, of a legislature controlled by the local population and an executive controlled from the outside. As the American experience in the Philippines shows, deadlocks and bickerings under such a system become inevitable.

[44] Cf. Vol. II, p. 19. [45] Cf. Vol. I, p. 976. [46] Vol. I, p. 938.

So far, the mixing of chiefs and native intellectuals in the same Council is an experiment which has not received enthusiastic praise. Much of the time of the Council is spent in the discussion of matters affecting the communes and the European industrial community—matters of great technical importance, such as franchises for electric lighting, postage and telephone rates, hospital fees,—matters which the citizen-members may conceivably understand, but which are far beyond the intellectual comprehension of most of the chiefs whose acquaintance with French is extremely limited, and whose knowledge of these matters is inevitably non-existent. The powers of the Council remain virtually as they were defined in the decree of 1879, couched in a terminology employed for the departmental councils in France. From the standpoint of the government, the chief advantage of this representation of chiefs is that it has given the administration a hold on the Council which it did not have before. But this very fact makes the Council unpopular with the educated class, which still demands the return of the General Council. At the same time, the new Council has not proved very beneficial to native interests. Far from being defenders of the native population, the chiefs have voted with the government to increase native impositions.[47]

That the eight Europeans who participate in the Council should have exactly the same status as the thirty-two blacks is a situation which would strike the Anglo-Saxon as anomalous to say the least. The visitor to the Council will frequently witness a black president calling a European member to order for rowdiness. It does not appear, however, that the Council has been divided upon racial lines, *i.e.* of white versus black, except on the issue of higher pay for European officials—a policy which was, in fact, attacked as vigorously by the European as by the native members. The real alignment so far has been the citizen-members—both black and European—against the government supported by the chiefs. Black members, as we have seen, have unmercifully criticized European officials. No British colony would tolerate the attacks which these natives make upon European officials in Senegal. While the French do not particularly enjoy these attacks, their tolerance saves them from more violent opposition. To the native mind, the right to air one's grievances is more important than to secure their redress.

Apparently realizing the disadvantages of conferring the privileges of French citizenship and French institutions upon its native subjects, the French government for a number of years attempted to curtail these privileges. It attempted to deprive the residents of the Four Communes of their right to vote, an attempt which was defeated by parliament in pass-

[47] Cf. Vol. I, p. 978.

ing the Citizenship Law of 1916. It attempted to cut down the powers of the General Council—which was more successful since the decree of 1920 established a body, half the membership of which, the chiefs, were apparently under government control. Likewise it has so far declined to establish new *Communes de Plein Exercice* while it has reduced the power of the Dakar Commune by the establishment of a new administrative district.

7. *The Native Electoral College*

But while this process of curtailing the power of such bodies has been taking place, the government has extended consultative machinery throughout the whole of French West Africa, in a number of different forms. In the rural districts, this development has taken the form of the Councils of Notables,[48] while in the cities it has taken the form of the Mixed Commune. In the colony as a whole the government has provided for native representation on the Council of Administration. Before 1925 the native representatives on such Councils were appointed. But the Governor-General in a circular of April, 1925, said that "notwithstanding the care which the administration took in exercising its choice . . . notwithstanding the spirit of independence which animated them, it nevertheless remained true that the fact that they had been appointed led to their being regarded as officials."

Consequently, the Government brought about an important change by introducing the principle of election for both European and native members in the Councils of Administration. The decree [49] provided that each council in the Sudan, the Ivory Coast, French Guinea, and Dahomey should contain three native subjects elected for a period of two years. Three districts should be established in the more advanced areas of each colony, each of which should choose one member. Seven classes of natives would be eligible to vote: certain native functionaries, excluding the police, native chiefs, native traders who may vote in the French Chamber of Commerce, native proprietors of real estate of the value of at least five thousand francs, native farmers cultivating areas as fixed by the Lieutenant-Governor, natives belonging to the Legion of Honor, etc., and other natives having rendered exceptional service to France as determined by the Lieutenant-Governor.[50] A commission composed of the administrator or mayor, a European magistrate, a member of the local Chamber of Commerce or Agriculture, and a chief draws up the electoral list in each district or commune. The voting list is prepared annually, and a native who is

[48] Cf. Vol. I, p. 998. [49] Decree of March 30, 1925.

[50] Voters must also be twenty-five years of age, domiciled in the colony for one year, and not have been convicted of crime.

omitted from the list may protest to the Lieutenant-Governor. Natives registered on this list may vote for the native subject-members of the Council of Administration, as well as for members in other bodies, the election of which may be provided for by law.

The basis of representation is thus much wider than in the three British colonies of West Africa where the principle of election is confined to urban areas.[51] So far too little time has elapsed to determine how successfully this plan will work out in French territory. It remains to be seen whether natives living outside of the towns will walk a long distance for the purpose of casting a ballot for these representatives.

The French have not experienced the difficulties of the British in granting elective representation to the native population, on these different advisory bodies, because real responsibility for administration lies in Paris rather than on the spot. In a British colony, all legislation, including the budget, is enacted by the local Legislative Council. As a rule, this legislation goes into effect immediately although it can be disallowed by the Colonial Office within a period of two years. Unofficial members on the Legislative Council, as we have seen, exercise considerable influence upon the course of legislation and expenditure.[52] Councils in British colonies are, therefore, of real importance. It is quite otherwise in the French colonies, where, except for the Colonial Council, the consultative machinery has no legislative power, which, for that matter, neither the Lieutenant-Governor nor the Governor-General possesses since the source of legislation lies in Paris. The President of the Republic decrees the budget of the Federation, and all other legislation. For the past few years, the French Government has incessantly talked of decentralizing control. But it is difficult to see how this can be done as long as the system of legislation by decree remains in vogue. Sooner or later, if the history of other parts of the world is repeated and if human beings in West Africa, both Europeans and natives, act as they have acted elsewhere, the local communities will turn against a ruler five thousand miles away. This danger has been avoided under the British system by delegating legislative authority to councils on the spot.

[51] Except for election by chiefs in the Gold Coast, cf. Vol. I, p. 785.
[52] Cf. Vol. I, pp. 402, 740, 837.

CHAPTER 60

NATIVE POLICY

1. *Administration*

In order to administer the twelve million people who have become subject to French authority in West Africa, the government divides up each colony into a number of administrative divisions usually called *cercles*, at the head of which is a Commandant, a name which appears to be a heritage from the days of military conquest. Inasmuch as most of the French Empire in Africa was acquired by military officers, it is natural that part of the country should be temporarily administered by military men. The whole territory of the Niger was under military rule until 1921. There are still ten military officers serving in the territorial service in the Ivory Coast and thirty-seven in Mauretania.[1]

As a rule each *cercle* is divided up into several sub-divisions in charge of an administrator responsible to the Commandant. The eight colonies of French West Africa have a total of one hundred and fourteen *cercles,* while the total number of administrators is about five hundred. The average area and number of people in charge of each administrator is shown on the next page.

If one excepts the Upper Volta, it would appear that under the French system there are three administrators to every one in the average British colony.[2] This is due partly to the fact that French West Africa is more sparsely settled than British West Africa, but largely to the fact that the French, unlike the British, entrust few powers to native chiefs and courts.

Great as the present number is, the number of French administrators was greater before the War. In French Guinea, the number has been reduced from one hundred and sixty-eight in 1913 to one hundred in 1926; in the Ivory Coast from one hundred and thirty-two to eighty-one; in Dahomey from one hundred and thirteen to eighty-two.[3] Thus as a result of the War, the grip of French authority has been relaxed.

French administrative officials fall into two groups: (1) administrators

[1] Cf. the Decree of December 4, 1920, converting it into a "civil" territory. Decree of October 13, 1922, *Journal Officiel,* 1921, p. 82. For military rule in Equatorial Africa, cf. Vol. II, p. 221.

[2] Cf. Vol. I, p. 648.

[3] Cf. the budget of these colonies for 1926.

TERRITORIAL ADMINISTRATORS—FRENCH WEST AFRICA

	Administrators	Agents of Civil Service	Total	Population Per Administrator	Area per Administrator —Square Kilometers
Senegal	30	33	63	19,292	3,048
Ivory Coast	36	49	85	18,134	3,765
Niger	16	30	46	23,566	26,088
Guinea	44	34	78	24,050	2,970
Sudan	54	41	95	26,048	9,722
Mauretania	8	13	21	12,464	19,048
Upper Volta	36	25	61	48,745	6,678
Dahomey	26	24	50	16,845	2,140
	250	249	499[1]		

[1] These figures do not include administrators on leave, which are about a third of those on duty.

This table is based on the 1926 budgets. Somewhat different figures are given in the Address by the Governor-General to the Council of Government, 1921, *Annuaire du Gouvernement-Général de l'Afrique Occidentale Française* (hereafter cited as *Annuaire*), 1922, p. 84.

of colonies, (2) agents of the Civil Service. The first are appointed by decree of the Minister of Colonies and are assigned to different colonies as the Minister chooses. French administrators are recruited from among the graduates of the Colonial School at Paris to which they are admitted upon competitive examination at the end of their secondary school and where they undergo a three years' course of instruction; or they may be recruited from the ranks of the agents of the Civil Service. These agents are appointed by the Governor-General and, unlike the administrators, serve only in the territory where they are appointed. They are supposed to have a *Lycée* education and are usually chosen after an examination. Their qualifications and salaries are lower than those of the administrators. Upon receiving an appointment, such an agent is usually assigned as an assistant to an administrator or to a bureau in the secretariat where his work is largely clerical. To a visitor, it appears that many of these agents perform work which in British colonies is performed by native clerks. When necessary, an agent may act as the administrator of a sub-division. An agent may also be promoted to administrator after passing an examination in the colony and following a year's instruction in the Colonial School in Paris. In Senegal to-day about sixty out of the one hundred and fifty official posts are held by former agents of the Civil Service.

The income of these various officials is made up of an agglomeration of items. Administrators receive the salary which is given to functionaries of a corresponding grade in the home government. In addition, they receive a colonial supplement which in the case of French West Africa amounts to 7/10, and in the case of French Equatorial Africa to 9/10, of the base pay. Administrators may also receive an *indemnité de zone* and certain other sums on account of their families. All of these items bring the salary of an *Administrateur en Chef*—the highest official in the territorial service—to nearly twice his base pay or between thirty-five thousand and forty thousand francs a year—a sum which he does not usually receive until after ten or fifteen years of service.[4]

This sum, which at the rate of exchange since the War comes to about four hundred pounds, is about a fifth of the salary received by British Residents in northern Nigeria or about two-fifths of the salary of administrative officials in British East Africa.[5]

In comparison with British officials, it thus appears that French administrators are underpaid. But it must be remembered that the purchasing power of a pound in French territory is much more than it is in British territory. Moreover, the standard of living of French administrators is lower and in some ways more wholesome than the standard one finds in British territory. In comparison with the functionaries at home and with private Frenchmen doing business in the colonies, French officials receive satisfactory salaries which are in fact the object of envy. It is doubtful whether an increase in salaries would improve the calibre of the personnel. The administrator, recruited from among the graduates of the Colonial School at Paris, is usually a high type man, having both character and intelligence.

From the financial and educational standpoint, the situation is more serious in regard to the Agents of the Civil Service. At the present time, about two-thirds of the administrators in Senegal have been recruited out of their ranks. These agents are unbelievably underpaid. They start with a base pay of six thousand francs a year which is augmented to fourteen or fifteen thousand francs by various supplements. The total income of the highest rank in this service is about twenty-six thousand francs or two hundred and sixty pounds a year. These salaries are so low that the wives of these agents must find employment somewhere. In order to assist them, the Senegal Government follows the policy of reserving to such

[4] The base pay of an assistant administrator starts at 9,500 francs. There are two grades of assistant administrators, and two classes of administrators, besides the *dministrateurs en chef*.

[5] In Uganda, Kenya, and Tanganyika, a provincial commissioner received in 1926 a maximum of a thousand pounds or five thousand dollars.

wives the positions of stenographers and telephone operators, which in British colonies are usually held by natives.[6]

Representatives of the various government departments will be found in many *cercles*. It appears that the Commandment has more control over such representatives than has a British provincial commissioner.[7] The Governor of Senegal in a circular[8] issued in 1926, said that as the agent of the Governor, the Commandant had authority over all the personnel in the administrative area under him. But while he could watch over the various services, he should not substitute himself for the heads of the departments in deciding technical questions, nor limit their authority over departmental personnel. He should merely report to the Governor what was going on. Departmental officers should immediately answer all requests for information from the Commandant. The Commandant may visit schools, dispensaries, experimental farms, and workshops in order to obtain information. All correspondence between heads of departments at the capital of the colony and their representatives in the *cercles* must be sent in unsealed envelopes through the office of the Commandant. While he may not hold up any correspondence nor modify it, he may make his own "observations" to the Governor.[9]

Thus while the Commandant cannot interfere with purely technical activities, he may unify the work of these officials. The result is that especially in medical work the French departmental service appears to have a much wider social vision than that of the service in British West Africa. Moreover, no conflicts arise between departmental and political officers. The system does, however, multiply the bureaucratic formalities which characterize the French system of administration generally. But these arise in the relations of the departments of the Governor more than in their relations to political officials in the districts.[10]

2. *The Use of Native Chiefs*

In entering West and Equatorial Africa, the French, as we have seen, encountered a number of native states[11] having the same type of institutions as the native states of British West Africa. In most of these cases, the French acquired control of these states through treaties made with the

[6] French officials are entitled to a leave of six months out of every two years' service. While on leave, a functionary receives only his base pay. Pensions ranging from one-half to three-quarters of the base pay are granted after the completion of twenty-five or thirty years of service.

[7] Cf. Vol. I, p. 850.

[8] Based upon circulars of the Governor-General of June 10, 1903, and November 1, 1917.

[9] *Journal Officiel du Sénégal*, 1926, p. 210.

[10] Cf. Vol. I, p. 927.

[11] Cf. Vol. I, pp. 901 ff.

local chiefs, in which the government recognized native institutions. For a time, an effort was made to carry out these obligations. This effort was particularly noticeable in the early judicial system.[12] Residents were stationed in a number of native states, while the larger part of Senegal, French Guinea, and Dahomey was declared *Pays de Protectorat,* in contrast to the towns on the coast which the French had annexed and placed under direct administration. At first no taxation was imposed.

But this protectorate policy has given way during the last fifteen or twenty years to a policy of direct rule. A number of motives explain this change of policy. When the French undertook the occupation of West Africa they were confronted with a number of native tyrants who cruelly exploited their subjects. Life and property were insecure; slavery and human sacrifice prevailed in many areas. In a few cases, local Almanys had imposed a form of discipline, maintained by terrorism, upon thousands of unwilling subjects. But in other cases, simple anarchy prevailed because of the want of any social organization. The French authorities negotiated treaties with chiefs whenever they found them, originally out of regard for their "rights," and later in order to obtain a pacific hold upon territory until it could be more firmly occupied. But in view of the habitual abuses committed by these chiefs which, in the opinion of many Frenchmen, became greater when these chiefs could shelter themselves behind European authority, the French administration in Africa has gradually curtailed the powers of the chiefs, especially over judicial matters, land, and tribute. It has, in fact, terminated, except in the case of the Moors, practically all of the treaties originally made with the native states.

A semi-official historian states that these treaties of alliance guaranteed "the political organization, the religion, customs, institutions, and laws of the native country concerned." He continues: "These treaties were designed to insure the security of our commerce, the respect for the property of our nationals and our subjects, and stipulated by way of compensation the collection of certain taxes on cattle and upon exported products for the benefit of chiefs. . . . As a result of the evolution of the colony and its economic and administrative necessities, the clauses and obligations of these treaties have lapsed. The ends envisaged at the time of their conclusion have been realized, our allies have become our subjects and the different countries grouped under our authority by these acts have found their unity under our beneficent tutelage."[13] Confronted with the question whether it was simpler to control the native kingdoms or to abolish

[12] Cf. Vol. I, p. 1008.
[13] A. Sabatie, *Le Sénégal, sa Conquête et son Organisation* (1364-1925), p. 329.

them outright, the French, in contrast to the British, who follow the policy of control, chose the other alternative.

Administrative convenience and the desire to suppress abuse have thus combined to bring an end to these treaties. But probably an equally strong reason has been the conviction that the institutions of Africa are not worth preserving and developing and that the boon of French civilization should be bestowed upon the native population. While many French leaders soon came to realize that many generations must come and go before this aim is realized, they nevertheless retained the goal.[14] Even the names of most of the old kingdoms, whether the product of tyranny or of tradition, in Senegal and the Sudan and Dahomey have now disappeared.[15]

Although in parts of West Africa, notably in the Upper Volta, the French have now modified the anti-tribal policy and are supporting native institutions, in other parts, the policy of doing away with Paramount Chiefs is still followed. Thus in 1924, the French declined to appoint a Paramount Chief to succeed Chief Djihente in the Allada *cercle* in Dahomey. Instead, the tribe was divided up into cantons. But the people did not "agree" to the suppression of their chief, and a condition of anarchy appears to have resulted. The Dahomey Administration nevertheless believes that all Paramount Chiefs will disappear.

When in 1924 the Ardo of the Peuls of Dagana was removed for abuses, the government did not appoint a successor because, to quote the annual report of Senegal, "Experience has demonstrated the inutility of this appointment. Such an institution increased intrigue among the Peuls." The administration had no need of Paramount Chiefs, and the Peuls should not be given the position of having chiefs of their own race "in opposition to other populations in the *Cercle*."

At the recent death of a chief of the Ouolof group in the region of Ziguinchor, the government declined to appoint a successor on the ground that such a chief "no longer responded to any administrative necessity."

The most striking example of this "rigorous" policy came at the death of the Bour of Sine in December, 1923, the ruler of a native kingdom which had been in existence for three hundred years and which is inhabited by about one hundred and fifty thousand people. In 1859, the French Government had made a treaty promising to recognize the Sine of Saloum. In 1924, this kingdom was loyal. Yet the government declined to name a successor of the Bour on the ground that in the interest of the economic development of the country, the inhabitants should not be allowed to

[14] This question is discussed in greater detail in Chap. 69.

[15] Cf. Chap. 55. For further details, Cf. Charles Monteil, *Les Bambaras du Ségou et du Kaarta,* Paris, 1924, p. 101; M. Collieaux, "L'Histoire de l'Ancien Royaume de Kenedougou," *Bulletin des Études Historiques et Scientifiques,* 1924, p. 167.

"follow a separatist tradition, but should on the contrary deliberately adapt themselves to the system of administration which makes for the prosperity of the colony.[16]

The people in this kingdom were thereupon divided up into five cantons,[17] each having about fifteen thousand or twenty thousand inhabitants. The native Minister of the Interior (*Grand Diaraff*) and the Minister of War (*Grand Farba*) were retired. Since they had served the French Government well they were given a temporary annuity of two hundred and ten francs apiece.

According to the administrator, these two native ministers understood that the position of Sine no longer conformed to the exercise of French sovereignty, and merely obstructed the development of the country. In his opinion, the people realized that Paramount Chiefs were no longer of use to them when "every effort of the Administration tends to bring each inhabitant in contact with it by reducing to the greatest possible extent the number of intermediaries. . . ." In other words, the people would be closer to the administrator.

It appears that originally the administration of the French Ivory Coast divided the territory into administrative districts based upon ethnic considerations. Between 1908 and 1912, the country was reorganized, however, upon the basis of military needs; and after 1913, another reorganization of districts took place based upon economic considerations.[18] Elsewhere the government has followed a policy more sympathetic to native institutions; and in fact a contest between the two policies of direct and indirect rule is now going on in French Africa which helps explain differences in policy which seem contradictory.

From the beginning the French administration has realized the necessity of relying upon some form of native agents called chiefs. In West Africa, chiefs are divided into three classes: (1) the village chief, (2) the canton chief (*chef de canton*),[19] (3) the provincial chief who in the past has often corresponded to a traditional Paramount Chief. For example, in the Upper Volta, where the government is really attempting to follow native lines, there are nine *cercles*, divided into twenty-one subdivisions, each in charge of a European administrator. These sub-divisions are divided into sixty-nine "provinces" or tribes under a chief, which in turn are divided into four hundred and sixty-nine cantons, each with its

[16] "Suivre une tradition séparée, mais devait au contraire, s'adapter délibérément à la réglementation qui concourt à la prospérité de la Colonie." *Rapport du Sénégal,* 1924.

[17] Cf. the *Arrêté* of March 2, 1926, *Journal Officiel du Senegal,* 1926, p. 207.

[18] G. Angoulvant, *cited,* p. 105.

[19] A canton is usually a geographic group of villages.

chief. Eighty-four independent villages depend, however, directly upon the administrators. The policy in Senegal and apparently in other colonies in West Africa is to do away with all provincial chiefs in favor of the two categories of village and canton chiefs. In Senegal, there are one hundred and ten provincial and cantonal chiefs.[20]

In appointing these chiefs, the Lieutenant-Governor of each colony in West Africa usually follows the nomination of the Commandant *du cercle*. This latter official apparently has much more discretion in bringing about the dismissal of a chief than has an official in a British colony.

The test followed by the government in appointing a chief is whether or not the candidate will loyally respond to the demands of the administration. Thus the Governor of Senegal, in commenting upon the death of a certain chief, declared in 1924, "He was a devoted collaborator of the French Administration, whether in contributing with all his might to the organization of the Black Army, by aiding in the recruiting of numerous *tirailleurs* of the Sérère race who fought in Morocco or on French soil during the World War, in participating in the construction of the Thiès-Kayes railway, or by sending many thousands of laborers to the construction camps." [21] Chiefs are decorated with the medal of the Legion of Honor just as British chiefs are covered with similar honors.

In many cases, the French administration has selected chiefs with a view, not of utilizing traditional authority which in many parts of Africa in the opinion of many French administrators does not exist, but with a view of obtaining an agent who will fit into the French civil service. The tendency has therefore been to stress literacy, a knowledge of French, and familiarity with French administrative procedure, rather than hereditary right. When the administration finds a traditional chief, possessing these qualities, it selects him. But when it comes to choosing between an illiterate and incompetent chief and an intelligent commoner, many administrators prefer the latter as their assistant. Interpreters and office clerks are frequently promoted to the position of chief.[22] According to the administrator, a majority of the canton chiefs in the Thiè district have been selected from among the native office clerks. The canton chief of Fess, in the Casamance, is a former native postmaster. Other chiefs have been taken from among the native lieutenants in the Colonial troops during the World War. One governor has suggested that natives who had made the best record as soldiers should be made chiefs upon their return from service in France.

In Senegal, the idea of making the chiefs into regular French func-

[20] Cf. the list, *Journal Officiel du Sénégal,* cited, 1926, p. 162.
[21] *Conseil Colonial,* March, 1924, p. 5.
[22] *Ibid.,* November, 1922, p. 43.

tionaries has gone further than elsewhere in French Africa.[23] While before 1920, the chiefs were classified into twenty various grades or classes, depending upon their merit and length of service, they are now divided into ten such classes. One finds the following notices in the *Journal Officiel du Sénégal:*

Chief X of the 14th class is designated by the Lieutenant-Governor to administer the Canton of B. during the absence of the provincial chief, sick in the hospital at Dakar.

The Elder N. is temporarily named a chief of the 18th class and placed at the head of the Canton of P. in the temporary absence of the Canton chief X.

The "principal interpreter third class" is temporarily made a canton chief of the 7th class, and is placed at the head of the Canton of G. in the place of its former chief who returns to the government as a clerk.[24]

The consideration given to tribal units in drawing the boundaries of cantons and in appointing chiefs is shown in a recent *arrêté* of the Governor of Senegal, modifying the administrative divisions in the districts of Casamance. In this *arrêté,* the canton of Elinkine was suppressed; two others were united; the province of Dougouttes was divided into two cantons, and a large number of similar changes made. At the same time, Chief X of the 18th class who had ruled one of these cantons was dismissed as well as two other chiefs of the 19th and 20th classes, who had presided over cantons which were now united. A village chief was promoted to chief of the tenth class and placed at the head of a new canton. Altogether thirteen chiefs were summarily "dismissed from employment" as a result of this rearrangement.[25]

Practically all the chiefs in French colonies in Africa receive a rebate on the taxes which they collect for the government,[26] the rate of which varies with the colony. In Dahomey, chiefs receive a rebate of three and one-half or four per cent, in Mauretania the rate in some cases is as high as ten per cent. The total amount paid out in the form of rebates is 295,000 francs. In the Sudan, the chiefs receive two per cent for ordinary hut taxes and ten per cent for the zekkat or animal tax. In French Guinea, the rebate varies from five to eight per cent. In addition, the chiefs of many colonies also receive an annual stipend or salary. In the Upper Volta, the head of the Mossi kingdom is paid twenty thousand francs. Three hundred and fifty-one out of four hundred and eighty-seven chiefs in the

[23] Excluding always Madagascar.
[24] *Journal Officiel du Sénégal,* 1921, p. 684.
[25] *Ibid.,* 1926, p. 208.
[26] Cf. Vol. I, p. 1035.

colony are paid salaries totalling about two hundred and thirty-five thousand francs—less than a thousand francs apiece. In Mauretania, a total of 101,060 francs is paid out in the form of salaries, many of the payments being guaranteed by treaty. In the Niger, about one hundred and twenty-five chiefs are paid a total of one hundred and three thousand francs; some of the chiefs receive as low as one hundred and eighty francs. In Senegal, the chiefs, largely because of their position on the Colonial Council,[27] have been successful in getting salary increases. On November 17, 1925, the Colonial Council adopted a resolution in favor of increased salaries, and in February, 1926, the government fixed the scale at thirteen thousand francs a year for chiefs in the first class. Several chiefs receive more, however, such as the Bouna n'Diaye who receives twenty-four thousand francs. Chiefs of the lowest of the ten classes receive six thousand francs.[28] Twenty-four out of the one hundred and ten chiefs in Senegal receive more than the minimum. While the salaries of Senegal chiefs are low in comparison with the payments to the Emirs of Nigeria, they are high in comparison with the stipends paid the chiefs in the Belgian Congo, Kenya, or Sierra Leone.

3. *The School for Sons of Chiefs*

In an effort to improve the quality of these native "intermediaries" Governor Faidherbe founded a school in 1856 which was first called the School of Hostages.[29] Its name was soon changed to the School for the Sons of Chiefs and of Interpreters. This school was, however, closed in 1871 at the instigation, according to Governor Faidherbe, of natives who wished to see the French authorities remain ignorant of the country. During this period, one hundred and three students had enrolled in the school, of whom eleven later became native chiefs, nine became interpreters, and two became officers in the army. A few years later, the school was restored. In 1908, its nature was somewhat changed and it became a *médersa,* or an advanced school for Moslems. From the beginning it has been located at Saint Louis, the capital of Senegal. Instruction was given both in French and in Arabic, and included some elements of science, hygiene, history, geography, and something of the administrative organization of France and West Africa. Arabic grammar and literature were studied as well as theological law and Koranic exegesis. In 1913, forty-two

[27] Cf. Vol. I, p. 976.

[28] Arrêté of February 10, 1926, *Journal Officiel du Sénégal,* 1926, p. 161.

[29] The purpose was to "former quelques indigènes d'élite pour nous aider dans notre oeuvre de civilisation et d'assurer en même temps le recrutement des interprètes pour les diverses langues du pays." M. Faidherbe, *Le Sénégal,* Paris, 1889, p. 366.

out of the one hundred and eleven students were sons of chiefs, eighteen were sons of marabouts, and four were sons of interpreters.[30]

In 1922, the Médersa school returned to its former status and became a School for the Sons of Chiefs and Interpreters. Its purpose is now to train future chiefs. At present it is well-housed across the river from Saint Louis, in buildings similar to those one finds in France. Although some of the students come from the Sudan, the school is supported entirely by the Senegal budget. In 1926, the sons of interpreters were excluded—a recognition that they did not possess the traditional confidence of the people and hence would not make good chiefs. There are about fifty students at the school, most of whom live in the school dormitory which resembles an American army barracks, having tiers of beds lining both sides of a long hall. The students wear the picturesque robes and pointed shoes which characterize the Moslems of West Africa. In order to enter the school, a boy must possess a *certificat d'études* from the regional French school, which indicates that the boy knows the French language.[31] While some of the boys are as young as fourteen, most of them average about twenty. The course of instruction lasts for four years. During the first two years, the students learn Arabic, a subject which is taught because of the widespread knowledge of popular Arabic among the people of Senegal. During the last two years, they study the Moslem law of personal status, including marriage and succession, based largely upon the Koran. Properly speaking, no religious instruction is given. The boys also study the customary courses in French history, geography, and hygiene.[32]

In addition to these Arab studies, the distinctive feature of the school is the study of administration. During the first two years, the students hear lectures on the government of France—everything from the organization of the Chamber of Deputies to that of the French commune. In the last two years, they study colonial administration, in which they diligently plow through the texts of decrees and *arrêtés* affecting natives, such as the recent decree on *Justice Indigène*.[33] They practice writing letters such as a chief is expected to send to an administrator; they learn principles of bookkeeping and accounts. In other words, the training is designed to make them French civil servants. Until 1926, the students were given no agricultural training. But realizing that the old program was too literary, the administration introduced the rule that each boy must work an hour and a half a week in a garden, which is located some distance away at the government experimental station. In the fourth year, the

[30] Cf. Paul Marty, "La Médersa de Saint Louis," *Revue du Monde Musulman*, Vol. XXVIII (1914), p. 1.

[31] Cf. Vol. II, p. 57.

[32] *Journal Officiel du Sénégal*, 1926, p. 200.

[33] Cf. Vol. I, p. 1007.

student must spend a certain period at a government farm school while the year following graduation, an entire year's training must be taken at the farm school at Louga where agriculture and cattle husbandry are studied.

When this training is finished—at the end of the fifth year—the prospective chief is sent to a regiment to perform the eighteen months' military service required of native "citizens." [34] Upon completing this course, he is assigned as a clerk or interpreter in the office of a *Commandant du Cercle*. When a vacancy in a chieftainship occurs, he is eligible for appointment.

Instruction at this school is marked with the thoroughness which characterizes French education throughout Africa. The Principal is a Creole from Martinique. As the above description would indicate, the purpose of the school is not to develop a native authority, such as the British are attempting to do at Tabora or at Bo,[35] but to train native functionaries who will form an integral part of the French authority. This is illustrated by the great stress which the school lays upon the study of French administration. The school devotes no time to the study of native institutions or history; there are no moot tribunals, no cooperative stores, no school herd. After four years in this atmosphere, followed by a year at a farm school, eighteen months in a French regiment, and several years in a French administrative office, it would seem that a native who is finally appointed a chief will regard himself and will be regarded by his people, not as a chief but as an agent of the French authority. This tendency will be increased by the policy of the government in placing chiefs over groups of people, regardless of race. Thus it does not hesitate to appoint a Ouolof chief over a Peul canton, and to change a chief from one canton to another. Under this system, it would seem that a chief would soon lose the traditional respect in which his family was once held, even though he were the son or the grandson of the old Damel of Cayor.

4. *Results*

As a result of the qualifications for native chieftainship which the French have imposed, and of the training which future chiefs now receive at Senegal, many of these "auxiliaries" have acquired a high degree of literacy and familiarity with French administrative needs. The chiefs are, moreover, thoroughly loyal to the French government. Instead of regarding themselves as the traditional head of a native group, they regard themselves as the agent of French authority.[36] The most striking illustra-

[34] Cf. Vol. II, p. 10.

[35] Cf. Vol. I, pp. 463, 867.

[36] At the Colonial Council a chief recently declared, "We, the chiefs, descendants of the old Senegal kings, must once for all bury the last vestiges of a disappeared and vanished royalty. The era of rivalries and intestine dissensions, born of the differences of birth, caste and race, is closed with the republican

tion of this attitude is the fact that the chiefs who are members of the Colonial Council of Senegal vote solidly with the French administrator; and that the defence of the interests of the natives in the country comes not from the chiefs but from the elected members of the towns.[37]

Despite the educational qualifications which in parts of West Africa the government exacts, it finds it difficult to obtain honest men for the chieftainship. In 1924 fourteen chiefs in Senegal were forced to resign and some of them were imprisoned because of corruption or gross maladministration. In three cases, chiefs embezzled funds of the native *Sociétés de Prévoyance.* One administrator writes, "The Chiefs are a class of public servants because they are obliged to perform public functions. Unfortunately . . . they envisage their position only from the standpoint of privileged prerogatives. . . . The evil is general. . . . Our chiefs do not understand that the honor of being a ruler is a burden. . . ." While the administration has attempted to instill ideas of probity, "it is feared it has been on unfruited soil." It does not seem that the French administration has been any more successful than the British in doing away with the petty exactions of native authorities; while the chiefs selected by the French methods do not have, as the French themselves are going to realize, the feeling of responsibility for and traditional control over the native group, which the traditional leader possesses.

5. *The Ponty and Van Vollenhoven Policies*

Misgivings as to a policy which ignored the traditional element have been expressed by three governors-general of West Africa, MM. W. Ponty, Van Vollenhoven and Merlin.

In 1909, Governor-General W. Ponty issued a circular on native policy in which he said that the necessities of French expansion had often led to the constitution of native organizations on a purely territorial basis under a native Commandant. But this system would no longer give good results as it put the chiefs at the mercy of an individual who was often a stranger to the country and to the races which he administered, and in many cases was a traditional enemy of the chiefs under him. The result of this system, which by installing Mohammedan chiefs over pagans was increasing the Moslem religion to which the French Government for political reasons was opposed, was a *malaise social.* Under these conditions, the Governor-General said that this policy of the territorial native

and democratic régime which at present governs us." *Conseil Colonial,* August, 1921, p. 27.

In 1921 the Colonial Council voted a credit of fifty thousand francs to create a Civil Service of Secretaries of Native Chiefs. *Ibid.,* December, 1921, p. 290.

[37] Cf. Vol. I, p. 976.

Commandant should give way to the *politique de races* which consisted of selecting chiefs from a family of the race over whom the chief would be placed. "Each people should conserve its autonomy." Further, "in allowing each race to evolve according to its particular mentality, in conserving, as much as possible, the individuality of the tribe, we shall contribute to favor the birth of individual effort in the midst of each group. . . . To suppress the tyranny of one ethnic group over another, is again to annihilate the hostility of the old aristocracy and to bring us the sympathy of the collective groups which, thanks to us, acquire an independent individuality." The Governor-General also pointed out the administrative advantages of making use of the tribal organization.[38]

In 1917, Governor-General Van Vollenhoven issued another circular in which he declared that the assistance of native chiefs was indispensable. "The native of French West Africa is a child; he loves to live under his chiefs, as a child loves to live with his parents; . . ." Although a European kept away from government officials as much as possible, it was otherwise with the native who "does not distinguish private from public affairs. . . . He is continually in need of something and addresses himself, to satisfy his desires, to whomsoever is invested with authority. . . . Examples are innumerable where natives will go long distances for the most futile causes, to see the chief. . . ." The native is not an individual but part of a society.

Since the French administrator cannot hope to keep in contact with his people because of their number, he must resort to native intermediaries. In choosing these intermediaries, two ways are open. He may use native interpreters and secretaries, native police, etc.,—agents who "embody in the eyes of the population, French authority." But the Governor-General did not believe that this type of personnel was qualified for the task. The native has no confidence in these agents who are "his equals, if they are not his inferiors, generally without instruction and education, sometimes without scruples, very often strangers to his race and to his locality, speaking to him as a master, making exactions as a tyrant, and acting as an agent of the *Commandant du Cercle,* as a guard (*Garde-chiourmes*) acts toward slaves. Under such a system his heart revolts; his pride is

[38] Circular of September 22, 1909, *Journal Officiel,* 1909, p. 447.

At the death of Governor-General Ponty in 1915, the *Revue du Monde Musulman* declared that the doctrine laid down by the Governor in 1909 could no longer be challenged in the practice of native affairs in West Africa. Governor-General Ponty had restored life to native races. "Was not this policy of Races derived from the principle of nationalities which the armies of civilisation are making triumphant in Europe?"

"La politique indigène du Gouverneur-Général Ponty en Afrique Occidentale Française," *Revue du Monde Musulman* (1915), Vol. XXXI, p. 7.

wounded even more than his interests." These facts were known to every *Commandant du Cercle*. In order to secure success, the commandants, therefore, should attempt to find intermediaries "enjoying the confidence and respect of the populations." In nine cases out of ten this intermediary exists; "it is the traditionally regarded chief" who may be defined as a "functionary who exists even when he has no power, and whose authority is recognized, even when he has neither been appointed nor granted power."

In regions where a traditional hierarchy exists, which include, according to the Governor, the greater part of French West Africa, the task of discovering these chiefs is easy. French authorities should seek out these chiefs and should take care to invest them by observing traditional formalities and procedure. In case of dispute, the candidate chosen should not be the one who most pleases the administrator but the one who most pleases the population. "It is seldom that an individual cannot be found in the country who, by his origin, his value, and authority, is set out from the common people and whom the common people respect: such a man must be chosen." [39]

As far as the powers of the chiefs were concerned, the Governor-General declared, "They have no power of their own of any kind. There are not two authorities in the *cercle*, the French authority and the native authority; there is only one.

"The native chief never speaks or acts in his own name, but always in the name of the *Commandant du Cercle* and by express or tacit delegation from him." These chiefs were utilized not to show deference to thrones of former sovereigns which either did not exist or which the French had overthrown, but to be the interpreters between the French and the native population. The chief was entitled to act as such an interpreter not in his own right but because the French believed him to be the best man.

"Thus the chief acts only by delegation of the *Commandant du Cercle* and under his responsibility. The extent of delegation should depend upon each particular case. But it should never be a blank check; the chief should always be required to indicate the means by which he intends to reach a defined end."

France has never followed the *politique du protectorat* such as certain foreign powers defined it. Except in the case of old native states such as Annam, Cambodgia, Tunis, and Morocco-French sovereignty cannot be divided or coined. . . . In Africa, the population know and feel the need of being part of a social group; and this is the reason why they are so profoundly attached to their chiefs, still more to the institution, perhaps

[39] In territories where there was no tribal organization visible, the Commandant should appoint outside chiefs.

than to the men. Intermediaries between the blacks and ourselves are, on the other hand, necessary; and the native chief alone can act as this intermediary because he alone has the confidence of the population." [40]

Thus in French West Africa, the chief rules the people as the agent of the French sovereignty. For the moment, the practical consequences of this principle may not be great. But if the native peoples in French Africa come to know that the chief is no longer chief in his own right, but merely a French agent, it is doubtful whether they will continue to give to him the respect and confidence which they formerly gave to their traditional rulers.

This same principle of ruling through the chiefs was stressed by Governor-General Merlin in his address to the Council of Government in 1921, when he declared that especially in the absence of more European administrators, "it must be admitted that we have never made sufficient use of our native auxiliaries." He continued: "In West Africa and elsewhere we have committed the fault of breaking up completely the native social structure (*cadres*) in place of improving it for the purpose of serving our administration." He hoped that these fatal efforts to break up native societies had not succeeded, and that where these societies still existed they would be made use of.

In 1924, the Governor-General of Equatorial Africa announced that one of his policies was the reconstruction of native society by the re-establishment of traditional groups and the strengthening of ancestral hierarchies.[41]

As experience elsewhere has demonstrated, the policy of ruling through traditional authority can be carried out effectively only when the government (1) seeks out by careful study the real rulers of the people and (2) invests such rulers with traditional powers, such as the administration of justice, control over communal land, and the collection of tribute or taxes. It does not seem that the policies laid down by the governors-general just quoted have as yet been carried into effect in French Africa because of the failure to make such studies, as are now being so carefully made in Tanganyika and the Belgian Congo,[42] and to invest native authority with real administrative responsibility.

6. *The Councils of Notables*

Nevertheless, the government has made two efforts to utilize natives more fully in the administration than hitherto. The first effort in this

[40] Circular of August 15, 1917, *Journal Officiel du Haut-Sénégal-Niger*, 1917, p. 466.

[41] *Revue Indigène*, 1924, p. 23.

[42] Cf. Vol. I, p. 456; Vol. II, p. 483.

direction was taken in the decree of December 13, 1891, providing for the establishment of "native communes," none of which were, however, created. The decree of 1920[43] in regard to municipal government again made provision for such "native communes" by authorizing the Lieutenant-Governor to nominate a commission of from five to ten members, who should provide for the administrative needs of the native community. Despite the French nomenclature in which this idea is couched, apparently the author wished to give some real power to traditional native groups. In the circular of the Governor-General explaining this decree, it was stated that the creation of these communes was a "phase in the reconstruction of the framework of native society which we had so inconsiderably destroyed."[44] It does not appear, however, that any such communes, with one or two exceptions in the Upper Volta, have been established.

A second step in this general direction was taken by the Minister of Colonies in 1919 in establishing what were called Councils of Notables.[45] The experiment of Councils of Notables is aimed to give natives in the country, as opposed to the city,[46] an opportunity to participate or at least to be consulted in regard to administration. The aim, according to the Minister of Colonies, is the progressive "formation of an *élite* which will later be able to cooperate more closely and in a more personal manner in the economic and financial life of the colony."

The Governor-General also said that the aim was to put administrators in touch with the people who had "remained until now almost total strangers to the functioning of our administration." He declared that through these councils the natives would come to understand better the motives and the value of French policy; and the administrators would find support in the "chiefs who are the natural guardians of native custom and tradition."[47]

This decree provides that in the administrative districts of West Africa "where the degree of evolution of the native population will permit it," consultative councils called *Conseils de notables indigènes* may be created by the Lieutenant-Governor of each colony. These councils are composed of: (1) the administrator in charge of the district, as president, and (2) from eight to sixteen members (French subjects) chosen by the chiefs and

[43] Arts. 45-52.
[44] Circular of February 12, 1921, *Journal Officiel*, 1921, p. 177.
[45] One writer credits M. Delafosse with having brought about this innovation through his writing. J. B. Forgeron, *Le Protectorat en Afrique Occidental Française et Les Chefs Indigènes*, Bordeaux, 1920, p. 49.
[46] Cf. Vol. I, p. 958.
[47] Circular of June 16, 1919, *Journal Officiel*, 1919, p. 410.

principle notables and appointed for a period of three years by the Lieutenant-Governor.

The Council shall meet at least once a year at the convocation of the president, the French administrator, who also fixes the agenda.

The Council must be consulted on all questions relating to: (1) the native tax, (2) the allocation and execution of prestations, (3) the rate of native trading licenses, and (4) the execution of public work of interest to the district. It may be consulted on other matters submitted to it by the president upon the order of the Governor. The Council can deliberate only upon matters submitted to it by the president.[48]

These councils serve the same purpose as do the councils of South Africa and Kenya which in some respects they resemble. Through these councils, the government can clear up native misunderstandings as to the action of the administration, and can induce the chiefs who for the most part compose the Council to accept policies and obligations which they might otherwise oppose. But inasmuch as these councils have for a president a Frenchman who controls the agenda, and inasmuch as the members are picked mostly from chiefs, they do not have the freedom of discussion which exists, for example, in the Transkei. According to the minutes of many of these councils, the administrator-president makes an introductory speech suggesting that taxes be raised and that such and such work be carried out for which the chiefs should supply labor, and then he asks, "Are you in accord?" It would take a brave man to interpose an objection. Nevertheless, some chiefs have voiced their protests against government exactions; the Council of Sine recently protested against the prestation system.[49] The French councils rest upon the same artificial basis as do those of South Africa and Kenya. In addition, the French councils have no money to dispose of in the form of a budget to promote native welfare. They are thus deprived of the experience which the necessarily precise discussion of financial affairs involves.

There is a feeling among many natives and some administrators that the native composition of these councils has been limited largely to chiefs who, as we have seen, represent the government rather than the native point of view. It is understood that the government, realizing this objection, is considering a project to broaden the basis of representation. If this is really done, the councils will probably become centers of opposition to the government policy.[50] Inasmuch as they are merely advisory organs and are deprived of deliberative and especially financial power, their only function can be that of criticism. When each of the one hundred and fourteen *cercles* in West Africa establishes such a council, the mechanism

[48] *Ibid.*, 1919, p. 406. [49] Cf. Vol. I, p. 1040. [50] Cf. Vol. II, p. 82.

of criticism may become formidable. While so far these councils have not been established in Equatorial Africa, they already exist in the Mandates of Togoland and the Cameroons.[51]

While the French administration has thus undertaken to consult native notables upon matters of policy, it has not believed it wise to entrust native authority with judicial power as the next chapter will show.

[51] Cf. Vol. II, p. 316.

CHAPTER 61

THE ADMINISTRATION OF JUSTICE

1. *La Justice Française*

UNLIKE the British and the Belgians, the French as a rule allow administrative officials to try only native cases. French citizens in the colonies are subject to the jurisdiction of professional magistrates and to the French codes.[1] The basis of this system, called *La Justice Française,* is the Tribunal of First Instance or the court of the Justice of Peace with Extended Competence, ordinarily presided over by a professional magistrate.[2] There are fourteen such courts in the whole of French West Africa, and there is only one for the French Cameroons and one for Togo. These tribunals have unlimited jurisdiction in civil disputes involving French citizens whether European or black. Cases involving sums greater than three thousand francs may be appealed to the Court of Appeal at Dakar. Its judgments, with certain exceptions, may be appealed to the Cour de Cassation. These tribunals may also try matters of "simple police" and "délits"; but "crimes" are tried by Courts of Assizes (containing assessors) [3] of which there is one in each colony. It is composed of several professional magistrates and a government official. The whole judicial system is presided over by a *Procureur-général,* having a representative in each colony called the *Procureur de la République* who, in addition to exercising the powers of an attorney-general in a British colony, reviews all cases and decides whether or not they should be appealed. This latter work is performed in a British colony not by an executive official but by

[1] The same distinction between administrative and common law is made in the colonies as at home. Consequently, each colony has an administrative tribunal, called the *Conseil des Contentieux,* to which cases involving the government and political questions are referred. Composed largely of functionaries, it appears to be dominated by the administration to a much greater extent than the Council of State in Paris. Chapter VI, Decree of December 4, 1920, in regard to the Administrative Reorganization of Senegal. Appendix, Vol. II, p. 99.

[2] Under certain circumstances, the *Commandant du Cercle* may be a justice of the peace.

[3] Arts. 15, 16, 17, 30. Decree of November 16, 1924. Offenses according to the French Penal Code (articles 464, 44, 6, 1) are classified into (1) *contraventions de police,* which are small offenses punishable with imprisonment not to exceed five days, or fine from one to fifteen francs; (2) *délits,* punishable with imprisonment from six days to five years, and (3) crimes, punishable with death or imprisonment, etc.

the Supreme Court.[4] In trying natives, the French (in contrast to the native) tribunals apply native or Moslem law in cases regarding *état civil,* marriage, succession, donations and wills.[5]

According to both the 1912 and 1924 decrees on native justice, natives in civil and commercial matters may, by common agreement, carry litigation before a French tribunal instead of having it tried by a native tribunal. But the government has ruled that this provision must not be interpreted to mean that natives have the right to exempt themselves from the jurisdiction of the native tribunals merely at their request. "The native status has an indelible character from which the native can escape only by naturalization." Under no circumstances can a native escape from a native law governing the status and capacity of persons, the family relations, and the régime of property unless the property concerned has been registered.[6] But he may make a special agreement with a native, under the decree of May 2, 1906, by which both exempt themselves from the native law in regard to such matters as sale and rent. This decree provides that conventions between natives, made according to customary form, not contrary to the principles of French civilization, may be drawn up in French and registered with the government.[7] Cases arising under such conventions may be taken to French courts.

Since administrators cannot try European cases, the adminstration requires the services of a comparatively large number of professional judges. The budget provides for sixty magistrates (including *greffiers*) for West Africa, compared with the fifty-seven judges in the Congo, and twenty-eight judges and law officers in three British colonies in West Africa, of Nigeria, Gold Coast and Sierra Leone. Despite this large quota, there are only twenty-four magistrates actually on duty in French West Africa to-day. The *Procureur-général* expressed his alarm over the situation in his report for 1924, by declaring that "the present situation is grave with danger; positions exacting great judicial experience are necessarily confided to young magistrates or to functionaries who are full of good will but lacking in sufficient experience." If the condition were not remedied, he foresaw in a very short time "the decline (*carence*) of the judicial system in French West Africa." Despite this warning, the number of judges on duty remained the same in 1926.[8]

[4] Cf. Vol. I, p. 650.

[5] Article 29, Decree of November 10, 1903, *Recueil,* 1904, p. 23.

[6] *Justice Indigène, Instructions aux Administrateurs sur l'Application du Décret du Aout, 1912,* p. 78.

[7] Decree of May 2, 1906, *Recueil,* 1906, p. 305.

[8] The expense of the judges and the judicial system generally in West Africa is borne by the general budget, although the expense of territorial administration is borne by each colony.

This system of professional magistrates, the recruiting of whom is so difficult, necessarily imposes a limit upon the number of French as opposed to native tribunals. In no colony are there more than two European tribunals, and in some colonies there is only one. As a result, Europeans must travel long distances before they can obtain a hearing. An example of this occurred a year or two ago when a missionary in the French Cameroons became the father of a child at a frontier station. Ignorant of the law in regard to *l'état civil,* the father neglected to register the birth; and the local administrator, upon seeing the new arrival, put the father under arrest. As the administrator did not have the power to try him, the father was obliged to journey several weeks to Douala—the seat of the only tribunal in the colony—where he was fined sixteen francs or fifty cents! In creating councils of arbitration, presided over by the administrator, the French have attempted to reduce these difficulties in so far as the settlement of disputes is concerned.[9]

The French judicial system in the colonies is not the same, however, as at home. Whereas in France a man being tried for a crime is entitled to a jury trial, in the colonies he is tried by several judges and some assessors. In France, a man is entitled to counsel in the preliminary hearing or *instruction.* Every person accused of crime must be brought before the *juge d'instruction* within twenty-four hours after arrest. The judge, similar to a justice of the peace in America, decides whether or not the man shall be prosecuted. In the colonies, however, the accused is not allowed to have counsel, as in France, in the Instruction proceeding. There have been many cases where the citizens have been detained longer than twenty-four hours; and the tendency has been for the courts to regard as conclusive as to guilt, the findings of the *juge d'instruction,* which are in some cases based upon alleged confessions sometimes exacted under the third degree and without legal advice. Consequently, the Colonial Council in 1923 and 1924 requested that the Instruction law of France be extended to West Africa.[10] It has also passed resolutions asking for jury trial in criminal cases. The French Government declined these requests partly on the ground that there were not enough lawyers in French Africa. But at the same time, the government was opposed to increasing the number of lawyers, because this would tend to create "an intellectual proletariat in a new country, where questions of race and religion would be raised unknown in France. . . ."

At present it strictly limits the number of lawyers who may practice in the African courts. Consequently there are only a handful of European

[9] Cf. Vol. IV p. 33.

[10] *Conseil Colonial,* October, 1924, p. 186.

lawyers in West Africa to-day while there are only one or two native barristers, the leading one of whom is at Dakar. One native, Prince Tovalou-Houenou, a graduate of the University of Paris and admitted to practice before the court of appeal in Paris, attempted to practice in Lome, Togoland —a mandated territory, but was forbidden to do so by the local government.[11] In 1920, 1921, and 1923, the Colonial Council passed resolutions in favor of a "free bar" in Senegal.[12] The situation is thus in great contrast to British West Africa, which has several hundred native lawyers.

2. *La Justice Indigène*

Native subjects do not as a rule come under the jurisdiction of the French tribunals proper, but under the régime of *La Justice Indigène*. In occupying French Africa, the French made treaties, as we have seen, by virtue of which the chiefs maintained most of their traditional judicial power. In 1898, the Governor-General issued a circular in regard to Senegal attempting to remove the abuses of which, in his opinion, the cadi courts and the village chiefs were guilty. He declared that cadis should be invested by the French authorities, that they should receive a fixed emolument, that all of their decisions should be registered, and that the administrators should exercise a veto.[13] He declared that a cadi should be appointed in each province who should act as a court of appeal. The circular also provided that the cadis should hand over all fines to the government.

Because of the treaties, the Governor-General said that the reforms could be carried out only after making new conventions embodying these conditions, which was apparently done in Senegal.[14] As a result of these changes, thirty-six ordinary cadis, nine superior cadis and four pagan courts of appeal were recognized.[15]

Decrees of 1892, 1894, and 1896 also recognized the judicial powers of the chiefs in French Guinea, the Ivory Coast and Dahomey except in the case of serious crimes which were reserved to the French courts. Since these latter courts scarcely existed, most crimes went unpunished. Consequently a decree of 1902 restored the criminal jurisdiction of the native courts over subjects. But if the penalty imposed by these courts exceeded

[11] Political considerations may have entered into this action, as the Prince was the editor of *Les Continents*, a journal in Paris which had attacked French colonial policy.

[12] *Conseil Colonial*, October, 1923, p. 46.

[13] Circular of Governor-General Chaudié, of April 12, 1898. P. Meunier, *Organisation et Fonctionnement de la Justice Indigène en Afrique Occidentale Française*. Paris, 1914, p. 22.

[14] Cf. the text in Meunier, *cited*, p. 26.

[15] *Ibid.*, p. 28.

one year's imprisonment, the judgment had to be submitted to a *Tribunal d'Homologation* composed of two Frenchmen and two natives, located at the capital of each colony. This tribunal was the object of vigorous criticism because of its great distance from most native courts, some of which were three hundred kilometres away. The tribunal also had great difficulty in passing on native judgments because of inadequate records. The judges were not, moreover, familiar with native custom in every case, nor did they take political considerations into account. These criticisms led to the abolition of the Tribunal of Homologation in 1903.

In a decree of that year, the village chiefs were allowed to retain final jurisdiction over misdemeanors involving fines of from one to fifteen francs and imprisonment from one to five days. While the village chief could conciliate civil disputes, his opinion was binding only with the consent of the parties. Provincial tribunals, presided over by provincial or cantonal chiefs, assisted by two notables appointed by the head of the colony at the nomination of the Procureur-général, were given jurisdiction over all civil matters involving natives, subject to appeal to the *tribunal du cercle* or the administrator.[16] The provincial tribunals had jurisdiction over "correctional" matters. "Criminal" cases were now reserved to the European administrator. The judgments of the native courts in civil and penal matters could be enforced throughout the country after being viséed by the proper administrator.

While the 1903 decree did not require the village courts to keep any records, it obliged the provincial tribunals to send monthly returns of correctional cases—but not of civil cases—to the administrator.

Whether or not because of lack of proper supervision, these native courts did not, in French eyes, render justice in a satisfactory manner. Native chiefs, often judges and parties to a case, imposed excessive fines; and the French did not believe that native courts were capable of rendering justice. But instead of reorganizing the system and putting them under control as did the British in the Gold Coast when confronted by similar circumstances,[17] the French decided to abolish the judicial power of the village chiefs. This was done in a decree of 1912.[18] While the village chiefs were allowed to retain their powers in regard to conciliation, all judicial authority was vested in tribunals of the Sub-division and of the *cercle* respectively. Tribunals of the Sub-division might be presided over by native judges who, it appears, were in most cases native clerks rather than chiefs. The tribunals of the *cercle* remained under the European

[16] Decree of November 10, 1903. *Bulletin Officiel, Ministère des Colonies,* 1903, p. 444.

[17] Cf. Vol. I, p. 804.

[18] Decree of August 16, 1912. *Recueil,* 1913, p. 25.

administrator. The final step in suppressing the power of the chiefs was taken in a new decree, promulgated in 1924,[19] which put virtually all judicial power in the hands of European functionaries.

3. *The Present System*

At present, the system of native justice in French West Africa is based on the Tribunal of First Degree, usually found in an administrative sub-division and presided over by an administrator or other official assisted in both civil and criminal cases by native assessors. The Tribunal of First Degree has jurisdiction over all civil matters and police and correctional offenses.[20] The Tribunal of Second Degree, presided over by the *Commandant du Cercle,* hears all appeals in civil cases and "police" and correctional matters from the Tribunals of the First Degree in the *cercle.* It likewise has original jurisdiction in "crimes." The judge of the First Tribunal should impress upon the parties that they are entitled to an appeal to the Tribunal of Second Degree, but this right is restricted by the provision of the decree that the party losing the appeal in a civil case is liable to a fine of fifty francs. In "repressive" matters the *Commandant du Cercle* may order an appeal. A unique feature of the system of tribunals applying to natives in French West Africa is that the courts charge few if any fees to the litigants.

The Tribunal of First Degree in Senegal handed down in 1925, 1864 civil judgments and 2867 "repressive" judgments. The civil judgments related mostly to marriage, debt, land and personal property questions which would be tried by chiefs in the British colonies. The Tribunals of Second Degree decided two hundred and ninety-four criminal cases. Of this number, one hundred and nineteen were appeals, and out of the appeals, thirty-eight were dismissed. Thus the bulk of the judicial work is done by the sub-division tribunal in charge of a junior administrator, or other subordinate functionary, sometimes a clerk or an agent of the civil service.

In Senegal, there are twenty-two Tribunals of First Degree, one (sometimes two or three) being found in each *cercle,* and sixteen Tribunals of Second Degree, one for each *cercle,* making a total of thirty-eight courts where native cases may be tried. Compared with the several hundred native courts of Sierra Leone and of the Gold Coast respectively, the number of courts where the natives may seek justice in Senegal is comparatively few. Under such a system, the local chief continues to try cases out of court,

[19] Decree of March 22, 1924. Appendix, Vol. II, p. 131.

[20] It also has jurisdiction over infractions otherwise punished by disciplinary penalties, when committed by former soldiers and their families, which are exempted from the indigénat régime by the decree of January 14, 1918. Cf. Vol. II, p. 8.

unrecognized and, what is of more importance, uncontrolled by French authority. The French system means, moreover, a greater judicial burden upon the administrative official than one finds in a colony where native courts are employed. The administrative officials in French West Africa—about five hundred of them—try about twelve thousand cases a year, or about two hundred and forty cases apiece. In almost every case, the parties know only the native language of which the administrator-judge is usually ignorant. He must rely therefore, upon assessors and interpreters who know French only imperfectly and who in some cases are open to bribery and under control of local native leaders.[21] Abuses of this nature are particularly great in the Cameroons where one official told the writer that interpreters were a worse scourge than sleeping sickness. In one case, a native came with a grievance against his chief to a local officer who told him to take his hat off. The interpreter, who was apparently in control of the chief concerned, told the native that the "White man would cut his palaver to-morrow." The native thereupon remonstrated with the French official who again repeated, "Take your hat off!" The interpreter thereupon told the native: "The White Man says to get out of the office!" In the Yaoundé district of the Cameroons, the leading Chief is said to have every interpreter under his control with the result that no native can complain to an administrative officer against the exactions of the chiefs. Interpreters are automatically eliminated in tribunals where the chief himself is the judge.

A number of French writers realize that it is extremely difficult for European administrators to render justice fairly. A student says: "French functionaries are ill-suited (*inaptes*) to settle disputes between natives because the mission of a judge pre-supposes a knowledge of the customs, the usages, and the more or less rudimentary law, and finally the language of the natives, which they do not always possess and of which, in any case, they never have more than a superficial knowledge." [22]

Another writer says:

"The native judge knows better than the European those habits and customs which constitute the atmosphere in which he has himself been reared. He speaks the language of the parties before him. Often he knows them personally and he knows the degree of consideration or of confidence which each of them merits. He appreciates the *nuances* which will escape the foreigner. Thus he has greater chances of discerning the truth out of the attitude, the speech, or the reticence of the parties. The European magistrate,

[21] The abuses of interpreters in Senegal have been the objects of protests in the Colonial Council, *Conseil Colonial, cited,* December, 1921, p. 293. *Ibid.,* October, 1923, p. 41; *ibid.,* October, 1924, p. 184.

[22] Meunier, *cited,* p. 4.

on the contrary, is naturally ignorant of the character, the customs, and the language of the inhabitants. He is a stranger who has everything to learn. Obliged usually to recur to the services of an interpreter, he runs the risk at any moment of being deceived. When after many lessons of which the parties will have been the victims, he will have acquired the experience which he lacked at the beginning—promotion, retirement, or sickness will oblige him to leave; and this experience, with difficulty acquired, will no longer be of value. Finally, the European in the tropics easily becomes nervous and irritable, consequently, he finds himself in bad condition physiologically to settle the difficulties the examination of which above all exacts a calm, ponderating and impartial spirit. From this point of view, the races less agitated have the opportunity of making the best judges. . . . In the interest of the Europeans it is better that the native judge should carry the weight of discontent caused by unpopular judgments."[23]

When the native addresses himself to European tribunals "he almost inevitably becomes the prey of intermediaries of all sorts who exploit him" especially interpreters and professional letter writers.

The same defects have arisen from investing judicial power in an administrative official in the French colonies as have arisen in British territory. It is almost impossible under such an arrangement for a native to secure justice in a case in which the administrator is, directly or indirectly, a party. Several years ago, a chief in Senegal, acting under orders, requisitioned some millet for the administrator from a native farmer. When the farmer protested that he did not have enough even to feed his family and that he had already given the millet to the chief at the beginning of the harvest season, the chief ordered his men to thrash the farmer. The native could not get a fair hearing in such a case since the judge was the administrator who gave the original orders.[24]

In civil disputes, the native tribunals apply exclusively the custom of the parties. In case of conflict the custom prevailing at the negotiation of the marriage contract, or in the absence of the contract, the custom of the woman, is followed in regard to marriage questions. In other contracts the custom most generally followed in the place where the contract was made shall be followed; and in other matters the custom of the defendant.[25] In executing a civil judgment, the goods of the debtor may be seized only in conformity with local custom. "Very often the property of the soil is collective; it is therefore inalienable and unseizable. But in revenge, all the members of a family and even sometimes the tribe are responsible for and must honor a debt. It is permissible to depart from

[23] A. Giraul, *Principes de Colonisation et de Législation,* Paris, 1922, Part II, Vol. I, p. 495.

[24] Cf. discussion, *Conseil Colonial,* March, 1924, p. 43.

[25] Article 48, Decree of March 22, 1924.

these customs only when inspired by considerations of humanity which prohibit the seizure of the clothes worn by the debtor and his instruments of labor." [26]

In criminal matters, the native tribunals may impose (1) a fine up to the maximum of five thousand francs, (2) banishment for twenty years, (3) imprisonment for twenty years or for life, (4) death. Life imprisonment and the death penalty cannot however, be inflicted by the Tribunal of First Degree. These penalties are reserved to the *Commandant du Cercle*.[27]

Before pronouncing the sentence, the Tribunal inquires what punishment native custom would impose for the offence, and it must as far as possible impose a penalty in proportion to the gravity of the sanction imposed by native custom. The court may impose a penalty which seems to it to be equitable in a case where native custom has not provided a punishment.[28]

Some courts carry out the idea of imposing punishments authorized by native custom by imposing penalties upon a family for individual crimes. Recently a native tribunal on the Ivory Coast gave a murderer a long term of imprisonment and also imposed a fine of five thousand francs upon his family as blood money, to be paid to the family of the murdered man. This practice is also followed by the tribunals among the nomadic peoples of Mauretania. While fines are personal, they may be recovered against the heirs or the persons responsible for his debts according to custom.

In criminal cases, however, it is almost impossible to follow native custom. Many offenses criminal under European law, notably cannibalism, are not criminal under native law.[29] Other offenses such as forgery are utterly unknown to native law. Again, native law imposes for certain offenses flogging, torturing or other inhumane penalties which French humanitarianism does not tolerate.

[26] *Justice Indigène, cited,* p. 75.

[27] Article 49.

[28] Articles 49, 50. The Tribunals may also supply the penalties prescribed for the infractions defined by the "réglements de police" and of administration.

[29] The decree of 1912 prevented the tribunal from imposing the death penalty where it could not be imposed by native law, a rule which prevented it from imposing this penalty for cannibalism and ritual murder. These offenses became so numerous that the government enacted the decree of April 26, 1923, authorizing the imposition of capital punishment for any murder or attempt of murder committed with cannibalism in view. *Journal Officiel,* 1923, p. 457. In 1925, twenty executions for cannibalism took place on the Ivory Coast. Since then, this offense has greatly declined. Unlike British courts, French courts are forbidden to administer whipping or flogging as sentences. While capital punishment may be imposed, requests for pardon almost automatically go to the Pardons Board in Paris which must confirm the execution before it takes place. Executions in the French colonies are by shooting and not by the guillotine as in France. It appears that proportionately fewer executions take place in French than in British colonies.

4. *Lack of Penal Code*

When the administrator is thus barred from applying the native penalties, he has almost complete discretion in imposing punishment. The only limitation imposed upon the Tribunal of Second Degree is that it can not impose fines of more than five thousand francs, but it may give life imprisonment and impose the death penalty, subject to the restrictions mentioned below.[30] No penal code prescribes definite penalties for definite offenses, such as one finds in every country in Europe and America, in the British colonies and in the Belgian Congo.[31] As a result, an administrator in one district may impose imprisonment for six weeks for thieving while an administrator in a neighboring district may impose imprisonment for six years for the same type of offense. Likewise, a new administrator, succeeding an old administrator who punished adultery with a fine of a hundred francs, may impose a sentence of one year. Under the law, this is perfectly legal, and a native can not appeal from the decision of the Tribunal of the Second Degree.

The dangers arising out of such a system have been pointed out, not only by French students,[32] but by distinguished administrators. Several years ago, the Governor-General of West Africa complained [33] about the "mentality" of the judges, which was not advancing as rapidly as other features in the French administration. "One of the shocking anomalies," he declared, "to one who studies the decisions of the courts in the last few years is the extreme diversity in sanctions pronounced for the same offense. No rule appears to determine the extent of responsibility and the application of penalties." In an attempt to limit these abuses, he drew up a "penal code," giving a table of offenses with corresponding penalties. But he had to admit that this classification had "no obligatory character," since such a code was not embodied in a decree. This has not as yet been done. Likewise, the Governor of French Togo declared that the absence of a penal code had the "grave inconvenience of exposing the delinquent party to arbitrary judgment." He continued: "It happens that some judges, succeeding others after a few months' interval in the same tribunal, apply sanctions of an entirely different gravity to the same offenses, com-

[30] Cf. Vol. I, p. 1013.

[31] Cf. Index—Penal code.

[32] Girault, *cited,* p. 505. Cf. M. Delafosse, "Les Peines," *Dépêche Coloniale et Maritime,* January 11, 1923, who emphasizes the need of a code. M. Meunier says, "Cet état de choses est d'autant plus dangereux que . . . ce dernier [l'administrateur] est souvent un homme jeune, susceptible de se laisser griser par les pouvoirs très grands qui lui sont confiés et, partant, pouvant être facilement porté à en abuser." *Justice Indigène, cited,* p. 207.

[33] Circular of March 13, 1922, on the "Operation of Native Justice."

mitted under exactly the same conditions."[34] For this reason, a penal code has been introduced into Togoland.[35]

5. *Safeguards against Abuse*

Three checks have been imposed, the adequacy of which may be judged after they have been examined, upon the exercise of the French administrator's judicial power. The first is in the form of native assessors who keep the court informed as to what the native custom is. Each court has two such assessors, having a "deliberative vote," which gives them in theory greater power than in Togoland where their vote is only "consultative." The president of the court must secure the vote of one of these assessors before a judgment can be rendered. These assessors are appointed by the Lieutenant-Governor in each colony from a list of ten notables nominated by the *Commandant du Cercle*. While under the 1912 decree, the custom applied in each case was local custom, the 1924 decree declared that it is the custom of the parties in the case which should be applied. Consequently, the president of the court should vary the assessors in accordance with the tribe of the parties. But in practice, it proves difficult to find such assessors. Moreover, this principle does away with territorial in favor of a personal basis of jurisdiction.[36] The authority of the local unit is therefore weakened and conflicts appear inevitable. A party to a case can not challenge the appointment of assessors. These officials have been charged with receiving bribes.[37]

A second check on the First and Second Degree Tribunals takes the form of monthly court returns. The chief of each sub-division sends to the Commandant a register of judgments rendered in the past month dealing with criminal matters. This register contains a summary of the facts and evidence, the parties, the assessors and the judgment rendered. There is no control whatever over civil judgments of First Degree Tribunals. The Commandant in turn, sends to the Lieutenant-Governor a return of the criminal cases of Second Degree, as well as First Degree, courts.[38] These are transmitted after examination by the *procureur* of the republic to the

[34] Circular of March 13, 1923, *Journal Officiel du Togo*, 1923, p. 132.

[35] Cf. Vol. II, p. 312.

[36] The trend of history of Europe has been in the other direction—*i.e.*, from the personal jurisdiction of feudalism to the territorial jurisdiction of the modern state.

[37] In the circular on Native Justice of 1922, the Governor-General declared that the administrators should make the assessors understand "the social importance and moral grandeur imposed upon them, and place them on guard against all temptations and personal defalcations—reminiscences of the still recent epoch when the venality of native magistrates was the rule." These assessors are paid sitting fees. There are assessors similarly chosen by the Lieutenant-Governor for the Tribunals of the First Degree. Art. 6.

[38] Art. 45.

Governor-General and *Procureur-général* at Dakar. If dissatisfied with the return, any of these officials may ask for further information concerning a case, but none of them has the power to retry these criminal cases and no native has himself the right to appeal from the Tribunal of Second Degree. The *Procureur* may simply bring the case to the attention of a *Chambre de Homologation* which will now be described.

6. *Homologation*

In 1903, a Chamber of Homologation for the whole of French West Africa was established at Dakar. It came to be composed of a member of the Court of Appeal at Dakar, two other members (councillors), two functionaries appointed by the Governor-General, and two native assessors.[39] All judgments of tribunals in West Africa carrying a sentence of more than five years automatically came before the Chamber of Homologation. Moreover, the *Procureur-général* could place before it any other judgment in criminal matters. The Chamber could either annul the judgment and refer it back to the Tribunal which first heard the case, or it could itself change the sentence. Under this system, the *Procureur-général* at Dakar was obliged to go through the court returns of twelve thousand cases annually, and decide what cases should be placed before the Chamber of Homologation—an almost physically impossible task.

In the new decree of 1924, an improvement was made by creating a Tribunal of Homologation for each colony, composed of the president of the Tribunal of First Instance, administrative officials, and native assessors. All criminal cases involving a sentence of over three years automatically come before these tribunals, whereas under the old decree the period was five. Cases under three years may also be referred to the Tribunal of Homologation by the *Procureur* in the colony. The judgment of the colonial tribunals in these cases is final. The *Procureur* may also refer to them civil cases where the native tribunal has manifestly exceeded its powers. Cases involving imprisonments for over ten years and death penalties automatically go to the Chamber of Homologation at Dakar.

As a result of this new system, the number of cases before the Chamber of Homologation at Dakar decreased from four hundred and eighty-seven in 1924 to one hundred and fifty-nine in 1925, and to fifty-three in the first six months of 1926. Of these fifty-three cases, eight were placed before the Chamber by the *Procureur-général,* while the others came up automatically or *d'office.*

[39] Chapter IV, Decree of August 16, 1912. For a digest of some judgments, see Gilbert-Devallons and Edmond Joucla, *Jurisprudence de la Chambre d'Homologation,* Gorée, 1911.

The percentage of judgments annulled by the Chamber at Dakar is as follows:

Year	Number of Cases	Number of Cases Annulled	Percentage of Cases Annulled
1923	340	190	56
1924	487	356	71
1925	159	57	30
1926 (to June 1)	53	8	15

The percentage of *annulations* has thus declined under the new system of colonial homologation tribunals. Nevertheless, the figures for *annulation* by colonial tribunals of homolgation, at least for the tribunal in Senegal, remain high. Thus the Senegal tribunal in 1925 reviewed seventy cases of which it annulled twenty-nine outright and virtually annulled five others —or about half.[40] This percentage of *annulations* is high doubtless because the Chamber passes on *vices des formes* rather than upon the fundamental principles involved.[41] There are no stenographic records kept of testimony in any tribunal. When a case comes before the Tribunal of Homologation, it is not heard *de novo;* no witnesses are called. The tribunal merely scrutinizes a *dossier,* usually written by a semi-literate native clerk, containing what purports to be a summary of the evidence which is sometimes nearly impossible to read. No lawyers are allowed to appear, although *memoires* may be submitted.

7. *Criticisms*

Members of the old General Council as well as of the new Colonial Council have expressed themselves earnestly about this system of native justice. In 1905 and 1907, motions condemning the system were introduced, and in 1909, a long motion was unanimously passed by the General Council, asserting that the system was a flagrant violation of the separation of powers and the right of the accused to defend himself. In 1921 the Colonial Council discussed a resolution requesting the right of appeal from a native tribunal to a magistrate, the adoption of which was postponed at the request of the representative of the administration.[42] In 1923 it passed a resolution asking the right of appeal.[43] Criticisms were also voiced in 1924, when a long resolution was passed, providing that the pay

[40] In Mauretania, only one judgment out of ten was reversed, but this is in an exceptional colony composed of nomadic peoples who bring few cases before the tribunals.

[41] In the Colonial Council (*Conseil Colonial,* March, 1924, p. 44), there were outbursts when a chief declared that the chamber annulled unfair judgments; speakers declared that the sole purpose of the chamber was to see that judgments were not defective in form.

[42] *Conseil Colonial,* December, 1921, p. 290.

[43] *Ibid,* October, 1921, p. 290.

of native assessors be increased, that native judges be appointed, that interpreters knowing French be assigned to every police commissioner, and that natives be allowed to have a lawyer or other defender of their choice.[44]

The natives have also protested against the establishment of native tribunals by the decree of 1924 for the "subjects" living in the four communes, hitherto under the régime of the French courts. They did not wish to fall into the hands of a French administrator unbound by a definite penal code; nor did they wish to be deprived of the right of appeal which they held under the preexisting system. In 1924, the Council passed a resolution protesting against the establishment of such native tribunals, and asking that the French courts should judge all cases, criminal and civil, not handled by the Cadi courts, in the four communes, whether involving citizens or subjects.[45]

Evidently the native citizens of the four Full Communes of Senegal, in thus expressing their preference for *La Justice Française,* do not believe that the checks against abuse established by the 1924 decree, whether in the form of assessors, criminal returns or the system of homologation, are adequate. In many British territories and under certain cases in the Belgian Congo, the native has been given the right of appeal. In Nigeria this right is denied him. The circumstances are, however somewhat different in a territory with a well-established system of native courts with appeal from a lower to a higher court, than in a territory which has no native courts but which centralizes judicial power in the hands of European officers. Under the Nigeria system, the European officer acts as a controller over native courts more than as a judge, whereas under the French system the European officer is the judge. Consequently, it would seem that a right of appeal would be more necessary under the French than under the Nigeria system.[46]

Every British territory in Africa as well as the Belgian Congo requires administrative officials as well as native courts to follow a penal code which defines the penalty which they may impose in a given class of cases.

[44] *Conseil Colonial,* October, 1924, p. 417. [45] *Ibid.,* October, 1924, p. 505. *Ibid.,* 1924, p. 417. In 1925, the Dakar native tribunal (first degree) heard one hundred and thirteen repressive and eight hundred and ninety-nine contraventional matters, of which six hundred and twenty-seven were offenses against hygiene regulations. The Second Degree Tribunal heard eight criminal cases. The First Degree Tribunal heard only eight civil cases, while the Second Degree Tribunal heard none, showing that the subjects (as well as the citizens) go to the cadi in civil matters. Moreover, these native tribunals in the communes have experienced great difficulty in enforcing judgments, because of the absence of a staff to serve summons, etc.

[46] Meunier says, "L'appel possible devant la chambre d'homolgation noe seulement pour le Procureur-général, mais pour l'intéressé de tous les jugements rendues en première instance par les tribunaux de cercle, nous semble un frein nécessaire et naturel." *Justice Indigène, cited,* p. 207.

Under such a system the individual discretion and the possibility of abuse is reduced; whereas under the prevailing system in West Africa, as the Governor-General has pointed out, two administrators may impose widely differing penalties for the same offense. The French mandate of Togo has given the native a right of appeal and has established a penal code to control administrator-judges. Its example is worthy of consideration by other French territories in Africa.

8. *Disciplinary Penalties or the Indigénat*

In addition to these judicial powers, the administrators in French colonies have certain summary powers in regard to "disciplinary penalties,"—a system called the *Indigénat*. The government first granted these powers when France was completing the conquest of her African possessions to enable administrators to act quickly in the suppression of offenses for which judicial procedure was supposedly too slow. Under the system introduced in 1887, the administrator had summary power to punish all violations of regulations issued by the Governor [47]—a power which was restricted in 1888 to certain enumerated offenses. The decree of 1903 giving certain judicial powers to native tribunals created conflicts with the administrator's summary authority. This conflict was finally settled in 1912 by taking away the powers of the native chiefs. Five years previously, an *arrêté* specified twenty-six infractions for which the disciplinary penalties could be imposed. Thus if a native refused to pay taxes, or obstructed the public service, or was guilty of any disrespectful or knowingly offensive act toward the public authority, he was liable to summary imprisonment for two weeks or a fine of one hundred francs,—which amounted at that time to twenty-five dollars. In administering these sentences, the administrator [48] is not obliged to hold a trial. If an interpreter, a *garde du cercle,* or a chief comes into the office of an administrator and says that X insulted the government, the administrator may give X two weeks in jail. While the native has no appeal against these impositions, the administrator responsible for them must record a statement of the case and the penalty imposed. He must also send a record to the superior authorities. On the proposal of the *procureur,* the Lieutenant-Governor may revise the judgment, in which case the native concerned is released from prison or his fine returned as the case may be.[49] But as it is difficult for the Governor to pass upon decisions taken in remote parts of the colony

[47] Decree of September 30, 1887 and *arrêté* of October 12, 1888; Roux, *cited,* p. 160.

[48] *Arrêté* of September 14, 1907, *Journal Officiel du Sénégal,* 1907, p. 501.

[49] Cf. Articles 13, 21 f the Decree of November 15, 1924; examples will be found of such revisions in the *Journal Officiel du Sénégal,* August 12, 1926, p. 671.

within two weeks, the native in some cases will have served out his sentence before an "annulation" can be made.

Natives sentenced to confinement under this system of disciplinary penalties must be incarcerated in a special section of the regular prisons.

As a result of the summary nature of this system, numerous protests against the *indigénat* have been made. In 1909, the General Council passed a resolution in favor of the suppression of the *indigénat* system.[50] The president of the Colonial Council attacked the system in 1924.[51] He asked how it was that Republican France could invent such a system as the *indigénat* and punish "severely and unjustly offenses worthy at the most of only blame or admonition." In 1922 a rising took place in Porto Novo which led to the establishment of martial law. One of the causes of this uprising, according to an African-edited newspaper, was the refusal of the government to naturalize a number of educated natives who insisted on this right primarily to escape the "menace de l'indigénat." [52]

Apparently as a result of these and other criticisms, successive modifications in the régime have been made, the first of which has exempted certain classes of natives from the system and the second of which has limited the scope of offenses and reduced the penalties which may be imposed.

The system does not, of course, apply to French citizens, whether white or black. On November 15, 1924, a new decree was issued which exempts from the *indigénat* eight different classes of natives; natives having served in the war;[53] chiefs, except village chiefs; employees of the administration; members of the different deliberative and consultative assemblies; assessors of tribunals; natives having a decoration; natives holding certain school diplomas; and merchants paying a license tax at a fixed residence. Moreover, the Governor-General, upon the recommendation of the Lieutenant-Governor, may exempt from this régime, "natives who have particularly distinguished themselves either by participating in the commercial or agri-

[50] Procès-Verbaux, *Journal Officiel du Sénégal,* 1908, p. 794.

[51] A decree of November 21, 1904, was issued to the effect that the internment of natives was non-justifiable in French tribunals and the sequestration of their goods could not be pronounced for a period longer than ten years.

The 1924 (Art. 22) decree provides that when a native is guilty of acts not falling under ordinary criminal laws, and deserving penalties greater than those imposed by the indigénat, the Governor-General may, at the request of the Lieutenant-Governor concerned, intern the native in question for a period of years and sequester his property for a period of ten years. This punishment may also be imposed upon natives guilty of insurrection or "grave political trouble." In place of being interned, such prisoners may be obliged merely to reside in a certain place. The Governor-General may also impose collective punishments, either in money or in kind, as can be done in the British colonies. *Conseil Colonial,* October, 1924, p. 425.

[52] Quelques Revendications Dahoméenes," *Les Continents,* September 1, 1924.

[53] This class was first exempt in 1918. Cf. Vol. II, p. 8.

cultural development of the country and in a general manner, to works of public interest, or services rendered to the French cause."

Commenting on these provisions, the Minister of Colonies declared that the system should thus be regarded "as a kind of annual promotion to a superior social state." [54] This statement illustrates the French philosophy of colonial government—only those natives who have reached the European standard or served the French cause should be entitled to the guarantees enjoyed by French citizens. The names of this privileged class are published annually at some such occasion as the Fête Nationale, July 14.[55] Thus under the present system, the native *élite* are exempt, but the great mass of the natives are still liable to imprisonment and fine with only a summary hearing.

In 1924, the number of offenses punishable under the *indigénat* were cut down from about fifty to twelve. The existing offenses are: (1) obstruction to the collection of taxes and execution of *prestations;* (2) refusal to execute work of interest to public order, security or public utility; (3) refusal to answer a summons from the administration; (4) omitting to declare a change of domicile in going from one district to another; (5) refusal to give up information of any public interest; (6) giving asylum to agitators or offenders sought by the police; (7) committing any act of a nature to weaken respect for French authority; (8) committing any act to abuse the good faith of the French authority; (9) failure to carry out administrative requisitions in regard to transporting, or obstructing the execution of public service; (10) illegal wearing of uniforms, etc.; (11) manifestations troubling public peace; and (12) refusal to receive French money having legal circulation. In theory, these offenses are of such a nature that they must be punished immediately and cannot, therefore, be placed before an ordinary court. But they are worded so broadly that it seems to be possible for an administrator to trump up some charge against and impose a penalty upon virtually any native he pleases. Moreover, as soon as the offender has finished his sentence, he may be punished for another offense, at the discretion of the administrator. Under these powers, he can impose punishments upon natives who refuse to obey a labor summons, although compulsory labor except for *prestations* is not authorized by law. Moreover, natives undergoing a prison sentence under this system may be obliged to serve out their term in labor for public purposes.[56] Some natives believe that the French purposely impose dis-

[54] *Circulaire Ministerielle* No. 386 au sujet des sanctions de police administrative indigène. November 20, 1924.

[55] *Journal Officiel,* January 1, 1926, notes that such a list has been drawn up but does not publish the names.

[56] Article 17, Decree of November 15, 1924.

ciplinary penalties in order to secure a cheap labor supply for the government. Through the *indigénat,* the administrator may also prevent discussion or criticism of the government by the natives, except in such assemblies as the Colonial Council. Native political organizations having a critical tendency may be immediately broken up by this power. This general attitude is reflected in the policy of the government, according to the 1925 report of the Government of West Africa, rigidly to control the press. As a result, there are no native newspapers in French Africa such as one finds in British Africa which vigorously express opinions contrary to those held by the authorities. There is only one native newspaper in the territory.[57] The government bars about ten foreign papers from French West Africa, most of which are Arab and Syrian. Likewise, it bars *The Negro World* and *The Gold Coast Independent.*[58]

The 1924 decree reduced in certain parts of West Africa the penalties which may be imposed under the *indigénat,* from two weeks' imprisonment and a fine of one hundred francs to from one to five days' imprisonment and from one to fifteen francs fine.[59] Fine and imprisonment both can be imposed only in the case of a second offender. In certain regions still in a "semi-barbarous" state, administrators may nevertheless impose the full penalty of one hundred francs and two weeks in jail.[60]

As a result of this system, French administrators summarily punish thousands of offenses every year which in a British or Belgian colony would go to the courts, or which would not be legally punishable. In the Upper Volta, 1004 fines and 2881 days' imprisonment were imposed in 1924 under the *indigénat* system—figures which increased in 1925 to 2356 fines and 4177 days' imprisonment. Of this number the Governor annulled only eight.[61] Apparently disturbed at the extent to which these penalties were imposed, the Governor-General ordered the Governors to check up these penalties closely. Yet it is always extremely difficult to control the exercise of such wide discretionary powers.

In the circular accompanying the 1924 decree, the Minister of Colonies implied that eventually the *indigénat* system in West Africa would be abolished altogether. While at present the system may be used largely in

[57] This paper, however, is more conservative than the European newspaper called *A. O. F.*

[58] Cf. *Journal Officiel,* 1923, p. 507.

[59] These are the "peines de simple police" mentioned in Article 11.

[60] In an *arrêté* of June 20, 1925, the Governor-General ruled that this penalty should still be applied to the three colonies of Upper Volta, Mauretania, and Niger, to the Sudan except for six *cercles,* and to the four *cercles* in Guinea, five *cercles* and one subdivision in Dahomey, and ten *cercles* in the Ivory Coast.

[61] But he made sixty-eight observations.

petty cases and under exceptional circumstances, yet it imposes powers upon administrators which neither the British nor the Belgian territories have felt necessary to give, and the exercise of which has without question antagonized a large body of natives. It is a curious fact that the government has imposed greater limits upon the system in French West Africa than it has in the two mandated territories of Togo and Cameroons.[62]

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In the judicial decrees of 1903, 1912 and 1924 the French government gradually cut down the judicial powers of the chiefs of West Africa on the ground that these powers had been exercised arbitrarily. So far we have examined the system which has been substituted for the former native courts, to determine to what extent it meets the needs of individual justice. But the question is important from the point of view of reestablishing the authority of native institutions. Judicial power, it has already been demonstrated,[63] is the foundation of all government and especially of tribal authority.[64] Until such power is vested in the chiefs, subject to the rigid control of European administrators, native institutions cannot vitally function. Without judicial power, they have little reason for existence. The French authorities might seriously study the system of native courts and of native treasuries established in a number of other parts of Africa, having a social organization similar to that found upon French soil.[65]

[62] The text of the decree and *arrêté* establishing the system in the Cameroons is printed in the appendix in Vol. II, p. 379.

[63] Cf. Vol. I, pp. 689 ff.

[64] Under the judicial decree of 1924, the government may appoint a native president of the Court of Second Degree. But no mention is made of the appointment of chiefs to this position, and apparently the intention is in case a European shall not hold the post, to appoint a native functionary, regardless of whether or not he is a chief.

[65] Cf. Chaps. 41-43.

CHAPTER 62

FRENCH LAND POLICY

1. *Native Land Customs*

HAVING examined the benefits which the French system of justice confers on the native, we shall now discuss another of the benefits of European occupation—security of property, and particularly of land tenure, which is advanced as a justification for European control. The native conception of land in French Africa differs in no respect from the conception held by natives in British West Africa. The head of the tribe or family is usually the guardian of the land, which he distributes to individuals or to families for their use. Among the Toucouleurs and the Peuls of the Futa region, the Almany had control over the land. Among some peoples, such as the inhabitants of Ziguinchor, the residual rights in the land belonged to God, who delegated his power to a religious chief. In the Ivory Coast, among the Dimini people, the land belonged to the mythical founder of the tribe who, while he could grant the use of land to newcomers, could not alienate it. His rights are now exercised by separate land chiefs who merely administer the land as representatives of the founder of the tribes. In the Bour kingdom, the control of the land was not in the hands of the Sine but in those of the Grand Diaraf, his minister, who collected a tithe of millet from its cultivators. At the conclusion of a study of the customs of the peoples in the Sudan, M. Delafosse says: "One of the most outstanding principles [in the Sudan] is that there is not an inch of land without a master, not an inch over which a proprietor and the greater part of the time, an occupier, does not make his rights prevail. Upon this point, peoples of the north and south, both sedentary and nomadic, are all in agreement, and this is undoubtedly why the Moslems themselves are little inclined to adopt the rule of the Maleki law, which admits up to a certain point that vacant land can be 'sans maître.' Moreover, all of the natives of the Sudan are unanimous in admitting that, if the chief of the political unit is the proprietor of the native soil, it is only as the administrator of the territory and the legal representative of the group to which in the last analysis all the rights to the soil belong. Thus, among the Moslems as well as among the animists,

the chief can cede no lands on his own authority, except those which he exploits himself and which constitute in a sense his private property.

"From the native point of view, it is therefore illegal on the part of the French authority to consider any lands however small as domain of the French state, and to grant concessions either to companies or individuals. . . . If it is a question of granting an agricultural, mining or forest concession over a certain area, the colony or the French State cannot do so without violating the traditional rights of the native, unless a preliminary agreement is made with the proprietors or occupiers of the land." [1]

2. *French Land System*

In occupying West and Equatorial Africa, the French Government entered into a number of treaties with several native sovereigns guaranteeing their rights in the land.[2] Elsewhere, the country was occupied by right of conquest. In order to regulate the land régime over both protected and conquered territory, the French Government soon issued a number of decrees, which, in the case of the Ivory Coast and Dahomey (1900) provided that while the "terres vacantes et sans maître" belonged to the State,[3] natives could not alienate their lands to outsiders without government consent. In 1901 the Guinea land decree provided that while vacant and ownerless lands belonged to the State domain, "in the protectorate which has been placed freely under the sovereignty of France, all land belongs to the chiefs as representatives of the native groups" and "in the whole of the protectorate territories, the land which constitutes in fact native property can only be ceded to individuals by way of sale or leave in their own name by the cantonal or provincial chiefs, or the almanys and with the consent of the governor." [4] Following the federation of West Africa, these different decrees were consolidated in the decree of October 23, 1904,[5] which makes the customary distinction in civil law between the "public domain" [6] which consists of inalienable public land

[1] M. Delafosse, *Haut-Sénégal-Niger,* Vol. III, pp. 14-15. The same view is taken by E. Maguet, "La Condition Juridique des Terres en Guinée Française," *Afrique Française,* March, 1926, Renseignements Coloniaux, No. 3. This writer, an administrator, states, "Le domaine privé de l'État est très restreint, en raison de l'absence presque complète de terres vacants et sans maître." He maintains that France cannot legally claim title to land the ownership she recognized in tribes before 1904.

[2] Cf. Vol. I, p. 917; Vol. II, p. 215.

[3] This is taken from the French Civil Code, Nos. 539, 713, which applies the same rule in France.

[4] Decree of March 24, 1901, *Bulletin des Lois,* 1901, Vol. 62, p. 1852.

[5] *Recueil,* 1905, p. 15.

[6] Under the French land laws, the domain belongs to the "State" and not to the colony. A literal interpretation of this article would mean that land revenues would therefore go to the home rather than the local budget. This interpretation

such as roads and lands bordering on seas and rivers, and "private domain" which the State may alienate. It then declares that lands vacant and ownerless belong to the State. But, according to article 10, "lands forming the collective property of natives, or which the native chiefs hold as representatives of native groups, can only be ceded to individuals after approval by arrêté of the Lieutenant-Governor in Council of Administration." On the other hand, the Lieutenant-Governor may grant concessions of not more than two hundred hectares each. Concessions up to two thousand hectares are made by the Governor-General, at the request of the Lieutenant-Governor; above this figure they are made by decree.

The terms of purchase are usually fixed by auction. The difference between the French and the British practice is that the French grant freehold titles (*pleine propriété*) after the fulfilment of certain development conditions, whereas the British usually grant leaseholds subject to revisable rents.[7] Under the French and Belgian system, the unearned increment therefore goes entirely to the private concessionaire; under the British system, part of it goes to the local government (and therefore indirectly to the natives).

Unlike the British land system, the French system grants concessions to natives as well as to Europeans. The procedure is the same, but the concessions to natives are of course smaller than to Europeans while the developmental conditions are less rigorous. In practice, few native concessions are granted.[8]

From the provisions of the above decree, it appears that originally the French Government introduced into their possessions in French Africa a régime which recognized the existence of native lands. While vacant land, if it existed, belonged to the State, the existence of native land was also recognized, and this land could be disposed of by the native authority subject to administrative control—a system which is similar to that which exists in the Gold Coast, Sierra Leone, and Southern Nigeria. But the local administration (supported by local court decisions) soon attacked this doctrine. In 1907, a case arose in which one native claimed to have rented his land to another native in Rufisque. The second native declined to pay the rent on the ground that the land, instead of belonging to the first native, belonged to the State. The Court of Appeal for West Africa

has not, however, been followed. See Girault, *Législation Coloniale, cited,* Part Two, Vol. II, pp. 96 ff. In 1908, the general council of Senegal adopted a resolution asserting the rights of the colony to the domain as opposed to those of the State. *Journal Officiel du Sénégal, cited,* 1907, p. 561.

[7] Cf. Vol. I, pp. 302, 487.

[8] Cf. Governor Poiret's circular, of June 27, 1923 (French Guinea), "au sujet de la Reconnaissance des Droits Fonciers des Indigènes sur les Terrains de Culture." Text in *Recueil,* 1923, part 2, p. 8.

held that the French Government had succeeded to the rights of the Damel of Cayor, who formerly ruled over this territory; that the Damel had absolute rights over the land; that individual property did not exist; and hence that the French Government had absolute rights over all the land not held under title.[9] This decision and others which followed in 1914 and 1915[10] took a limited view of the nature of private property. Under English law, private property may be jointly owned, which would thus include family property[11]—a definition which the French courts refuse to accept. In declining to recognize the distinction between private and public land clearly set forth in the 1904 and earlier land decrees, the French tribunals reduced all native occupiers to the position of tenants at will. A commentator stated in 1904 that the purpose of this decision was to give the administration the exclusive right to make concessions to Europeans. He added: "One may nevertheless hope, especially if the Administration is controlled by extreme prudence, that with the different corrections which we have proposed, the decisions of the Court of Appeal will not produce the disastrous effects the germ of which they carry; because it is beyond doubt that the unreasonable application of these decisions may overturn (*bouléverserait*) the native population and make it the irreconciliable enemy of France."[12]

The French Government did not heed this warning, as the Lebou land question shows.

3. *The Lebou Land Question*

Before 1800, the Lebou people formed part of the kingdom of the Damel of Cayor. In 1765, this king made a treaty with France in which he ceded the Peninsula of Cape Vert, the present site of the city of Dakar, and the domicile of the Lebou tribe. The French did not attempt

[9] *Recueil,* 1907, p. 78. (Part III.)

[10] *Ibid.,* 1914, p. 233. *Ibid.,* 1916, p. 75.

The French courts in Madagascar have accepted the opposite doctrine, saying that certain lands having been divided by the Malgach sovereigns among their subjects, and having, moreover, been made the object of numerous acts of occupation and exploitation, create, to the profit of the occupant, according to native legislation before the conquest, a veritable right of property. Court of Appeal of Tananarive, September 18, 1907, *ibid.,* 1907, p. 26.

[11] Cf. Vol. I, pp. 761, 817.

[12] Dareste, "Le Régime de la Propriété Foncière en Afrique Occidentale Française," *Recueil,* 1908, p. 1.

M. Dareste also said: "Si on introduit brusquement dans cet état social la conception romaine du Code civil, que ce soit pour en faire bénéficier des européens, ou l'État français, ou même les indigènes contre leur gré, on s'expose aux plus graves mécomptes et aux plus dangereux froissements. . . . L'État n'aura-t-il pas une dangereuse tendance à s'attribuer, a titre de terres vacantes et sans maître, les terres non cultivées, qui pourtant, comme on l'à vu plus haut, sont considerées par les tribus et les familles comme faisant partie de leur patrimonie?" *Ibid.,* pp. 16, 20.

to occupy and administer this peninsula until 1859.[13] Meanwhile, in 1795, the Lebou people revolted against the exactions of the Damel of Cayor and established an interesting republic under a Serigne. When the French first came to Dakar in 1857, merchants and functionaries purchased land from the Lebou chiefs, and for a time land speculation took place. Gradually, however, the government took the position that by virtue of the treaty of 1765, all of the lands of the peninsula belonged to the State. Consequently, it attempted to stop all sales by natives. Since the government owned the land, it was under no necessity, according to this theory, to compensate the Lebous for lands taken for government purposes, and it could sell what land it liked to private interests.[14] But the government unconsciously admitted the unsoundness of this position by recognizing the validity of the purchases made from the Lebous by private individuals. The Lebous, however, who are a vigorous people, would not submit to the pretentions of the government, and from 1857 down to the present, the question of the Lebou lands has been in the air—a question which has been studied by at least ten government commissions. If the government contention is accepted, it will not be obliged to pay compensation for lands upon which Dakar stands.[15] If the Lebou contention of ownership is recognized, the tribe will become tremendously wealthy from the unearned increment created largely by the French occupation.

In an attempt to compromise the issue, an agreement was made on June 23, 1905, between the Governor of Senegal and five chiefs and elders presumably representing the Lebous, in which the Lebou chiefs agreed to put the Bougnioul and Tound lands from which the Serigne had derived funds which he used for tribal purposes in the hands of the French Government as part of the public property. This was done "in recognition of the regular organization of the French administration in the peninsula." The agreement said that as a result of this administration, the Lebou tribe now occupied a position no different from other natives who enjoyed the rights of French citizens. Therefore, the Lebous could not expect to retain to their exclusive profit a patrimony common to all. In return for this cession, the French Government undertook to erect a native village on

[13] Cf. Vol. I, p. 909.

[14] An *arrêté* of 187 said that, "Whereas there exists on the newly annexed territories vacant land suitable for cultivation, and whereas the method of granting concessions should be determined, and whereas the natives who possess the land to-day under local custom have no regular titles of property, and whereas it is a good thing to favor the establishment of private property in the colony, the vacant lands may be conceded to persons who apply for them." On June 28, 1884, a committee reported that individual property rights in Dakar arise only out of government concessions (or prescription). Nevertheless, the State should not contest the ownership of lands bought by Europeans from natives in the past.

[15] For the British practice, cf. Vol. I, p. 757.

the Tound land and to increase the salary of Alpha Diol, as cantonal chief, from twelve hundred to three thousand francs a year so that he could properly entertain strangers. To compensate for revenues hitherto derived from the land, the government also promised to set aside annually eighteen hundred francs to constitute a Lebou tribal fund for the poor, and to pay Alpha Diol an annual sum of twelve hundred francs for the ceremonies of the tribe. The total annual payments under this agreement would thus amount to between four thousand and five thousand francs. At present, the Dakar budget appropriates annually five thousand four hundred francs for the Lebou tribe.

It soon appeared, however, that the signers of this convention did not represent the Lebou people and had acted without authority, and that one of the signers who had been guilty of speculation in tribal land signed this agreement to get out of trouble. At any rate, the Lebou people disputed the position of the French Government before the court in 1907.[16] They argued that the treaty which the French had made in 1765 with the Damel of Cayor did not apply as the Lebous had become independent of the Damel in 1803, and as the government did not effectively occupy the territory until 1857. Moreover, the treaty of 1765 had never been constitutionally ratified. The Court of Appeal decided against all of these contentions, saying that the revolutions of 1790 and 1903 did not modify the rights of France, that it was a revolution directed against the Damel and not against France, and that France had never recognized the independence of the Lebous. Even if she had, treaties must be respected. Treaties, moreover, were diplomatic acts the validity of which the tribunals could not question.

Following these decisions, the Governor-General declared:[17] "The State is the proprietor of all the territory not only of Cayor but of Cape Vert [and presumably the whole of French Africa], exception being made, it is well understood, of only the parcels upon which individuals have acquired rights of definite property by way of administrative concession or in virtue of a title consolidated by prescription.[18]

"The natives are and remain simply holders at precarious title and enjoy rights, recoverable in principle, at the pleasure of the authority."

Disturbed by the operation of the land régime which might convert the natives of West Africa into a landless class—a régime similar to that which exists in British East and South Africa—Governor-General Clozel

[16] *Recueil*, 1907, p. 97. [17] Circular of March 16, 1907.

[18] The French Civil Code provides that an occupier acquires title by prescription after thirty years' occupation (Article 2262) but the court ruled that the Code did not apply to natives and that they could not therefore acquire title by prescription.

authorized the appointment of a Land Commission in 1915 to study the question and see what modifications in the régime should be made.[19]

In a circular written in regard to this Commission, the Governor-General frankly admitted that the decrees of 1904 had recognized the existence of native lands. He declared that native land tenure was neither individual nor alienable; the native conception of property did not conform to the French Civil Code but it "resided in a group which never disappears." There was a conflict between this conception and the judicial interpretations of the French courts which should be reconciled. He therefore proposed that legislation be enacted defining the limits of the term "terres vacantes et sans maîtres" and the means by which a native could become a private property owner. He also believed that collective property of the natives should be protected and its "integrity" guaranteed. He declared that French West Africa was so large and the population so sparse that village properties should thus be established without injuring the domain of the State "which should be fairly considerable in order to permit the play of concessions and to insure the work of colonization. . . ." [20] In the course of its investigations, the Commission took up the Lebou question; and during several sessions in 1916, the Lebou people pointed out that the Serigne could not dispose of the collective land of the tribe without the consent of the Council of Twelve Notables. Only five such notables signed the Agreement of 1905. Moreover, family lands could not be ceded without the consent of the family concerned.

At the same time, the government was taking Lebou land for the purpose of constructing a military camp. Fifty-five hectares were taken for this purpose in 1916.[21] Despite protests that these lands were under cultivation, the Lebous received no compensation. At the end of the War, the military authorities also wanted lands for an aviation camp, and in 1919 and 1920 the government held inquiries to determine what lands were "vacant and ownerless" for this purpose. The government finally decided to take over some eighty hectares of land at Ouakam occupied by the Lebous, but for which they held no title. As the Lebous were cultivating it, the government offered to pay them a total of forty thousand francs, thirteen thousand francs to go for the fifty-three hectares taken in 1916, and twenty-seven thousand francs for eighty thousand hectares now taken. It appears that the market value of the land was about three million francs. Declining to take the money, the Lebous challenged the registration of the

[19] *Arrêté* of October 23, 1915, *Journal Officiel, cited,* 1915, p. 712.
[20] Circular of October 23, 1915, *Ibid.,* 1915, p. 710.
[21] *Arrêté* of April 26, 1916; *ibid.,* 1916, p. 293.

land by the government in the Dakar tribunal.[22] This body decided in favor of the State on April 21, 1923, basing its decisions on former judgments of the Court of Appeal. A year later the Lebou chief opposed the registration in the name of the State of two other parcels of land the ownership of which the Lebou tribe claimed. In a judgment of March 22, 1924, the Tribunal of First Instance at Dakar ruled that since the Lebou community was not a "public moral personality" nor since it had not been recognized by the government as a society or a professional syndicate, it had no standing in the court and could not therefore object to this land registration.[23]

This judgment was severely criticized by a leading French jurist who declared that judges trained in the Roman law which was individualist in land matters found it difficult to conceive of a group existing under native law. According to this judgment, "Every native institution before the conquest, whether traditional or secular, was abrogated and destroyed by the sole fact of the application of European law. . . ." The writer adds: "Merely to state this theory demonstrates how absurd it is. . . ." This judgment constitutes "one of the most striking examples of this failure to recognize the law and the customs (*tendances*) of native races, which contains in it the germ of a veritable provocation to insurrection." [24]

Meanwhile, the Lebous had appealed to the General Council. In 1918, they said that the government had taken over the property of Lebous who were away fighting in the French army. Natives ignorant of French did not know that the government had taken their land. In reply to this petition, the Council expressed the regret "one time more" that the land system made spoliation possible—a fact which "had been pointed out many times in the midst of this Assembly. . . . If it is true that the sovereignty of the State has been substituted for the absolute power of the former sovereign of Cape Vert it is important, in the interests of a democratic colonization policy, to respect the former rights of individuals. . . ." [25] In 1924, the Council adopted a resolution insisting that in every part of the Colony it is established that "property exists in fact, sometimes under the collective or family form, somewhat analogous to the *Domain direct* and *Domain utile* of old French law." [26]

[22] For the protest of the Lebous, basing their rights to the land on a treaty of 1830, see *Ouest African Français,* March 24, 1923.

[23] Farba Paye c. Domaine de l'État, *Recueil,* 1924, p. 106. (Part III.)

[24] P. Dareste, "Les collectivités indigènes devant les tribunaux français." *Recueil, cited,* 1925, p. 1 (Doctrine).

[25] *Conseil Général,* 1918, p. 110.

[26] *Conseil Colonial,* 1924, p. 461. At the same session, when a commission approved a concession for an agricultural station on condition that native land rights be respected, the government representative declared: "There are no rights of third parties since the land is the property of the Colony." At this, the president

On June 25, 1925, the government attempted to regularize the situation by making another convention with the Lebou chiefs in which the latter agreed to surrender their claim to the "Tound" lands at Dakar, on condition that the government erect a native village. But in 1926, the government decided not to build the village. Instead, it issued an *arrêté*[27] returning the Tound land to the Lebous. The division of the land will be made by a commission of four functionaries, the chiefs, and three Lebou notables from each quarter. Each native possessor will receive a personal right of occupation, transmissible to his heirs, free of rent, provided he constructs within five years one or more houses on his land conforming to the conditions imposed by the sanitary and building laws for the first zone of Dakar. Upon the completion of such construction, he will receive an individual title.

While the Lebou land question appears to have been settled by this compromise, the Land Commission of 1915 which was to study the whole land question never reported, apparently because of the exigencies of the War.[28] The principle enunciated by the government and sustained by the courts still remains unassailed: namely, that all the land for which no native can produce a government title belongs to the State.[29]

So far the government has not exercised this power to expropriate natives over wide areas in the country, but merely in the towns. Under the law it may, however, alienate lands in the form of agricultural concessions, the demand for which is becoming strong.[30]

of the Council said he hoped the administration would not resort to methods which "while legal were of doubtful honesty." Another speaker said that the land decree "was an instrument of spoliation for anyone who knew how to use it." *Ibid.*, p. 70. At the same session, members of the Council protested against the action of the administration in moving natives off their lands at Kaolack without compensation. Cf. *ibid.*, pp. 107, 347. One speaker told of two Frenchmen who, learning that the government had decided to create an isolation zone between Dakar and Medina, sold their property which lay within the zone to some natives. After they purchased the property, the government told them they could not use it because it lay within the isolation zone. *Ibid.*, pp. 126-7. A chief at this session said that while he was confined in prison on a false charge, the Administration gave away his family land to another chief who in turn divided it among a number of natives. *Ibid.*, p. 501.

[27] *Arrêté* of March 4, 1926, ibid., 1926, p. 420.

[28] A number of careful studies on native land tenure were, however, submitted to the Commission.

[29] In 1923, the Governor-General had instructed the Lieutenant-Governor to register the land needed by the government for the port of Dakar. But the Lieutenant-Governor thought that the natives should first be given a "just and equitable compensation" for this land. To this suggestion, the Governor-General replied: "You have lost sight to a certain extent of the superior rights which the State may demand on land tenure in French West Africa." Circular of February 27, 1923.

[30] Cf. Vol. II, p. 23. The policy is now to pay a small indemnity called *déguerpissement*, for land which the State wishes.

4. *Private Titles*

While the government has taken no steps to protect collective native property, it has taken steps to give certain individuals security. Two years after the land decree of 1904, the French Government issued another decree providing for the registration of property in Africa under the Torrens system.[31] Once titles are granted by the government, all previous claims are automatically extinguished, and if the real owner has been deprived of his property, his only recourse is to sue for damages. The Torrens system does not exist in France.[32] But it was introduced into the African colonies in order to attract capital which would otherwise not be available for investment owing to uncertainty. Moreover, the system gave the natives an opportunity to convert property held under native law into property held under French titles.[33]

If a property holder wishes to register his land, he makes a request to the Receiver of Domains, who publishes the request in the Official Journal for three months, during which time any parties also claiming the property may register their opposition to registration. In case someone thus opposes the claim, the case goes to the Tribunal whose decision is final.[34] Under this system, the rights of an illiterate native receive scanty protection. The notice containing the demand for registration is published in French, a language which most natives cannot read, and is posted for only three months. The real owners of the property may be temporarily away, or they may not see the notice for other reasons. At the end of three months, the property is, nevertheless, registered in the name of the "demander"; and the only recourse of the owners is to sue for damages—a course which in the case of natives is of little real value. The establishment of some form of land insurance to cover such cases might remedy these defects, but is now impracticable. Once in possession of a title, many natives continue to dispose of their property in accordance with customary law—which soon creates a state of confusion.[35] At this state of native society, any system containing the present possibility of abuse appears to be unsound. The

[31] Decree of July 24, 1906, *Recueil*, 1907, p. 7.

[32] Here the régime of "transcription" prevails. Law of March 23, 1855, *Code Civil Petite*, p. 823.

[33] Article 58 of the Decree of July 24, 1906, says, "Dans les parties de l'Afrique occidentale française où la tenure du sol par les habitants ne présente pas tous les caractères de la propriété privée, telle qu'elle existe en France, le fait, par un ou plusieurs détenteurs de terres, d'avoir établi, par la procédure de l'immatriculation, l'absence de droits opposables à ceux qu'ils invoquent a pour effet, quels que soient les incidents de la dite procédure, de consolider leurs droits d'usage et de leur conférer les droits de disposition reconnues aux propriétaires par la loi française."

[34] If the state wishes to make use of any property, it first registers it in the name of the State. If no opposition is sustained, the Tribunal grants a title to the State.

[35] Cf. Governor Poiret's circular, *cited*, *Recueil*, 1923, p. 10.

General Council in 1910 unanimously voted that the 1906 decree should be repealed in favor of the Civil Code, one member denouncing the registration system as a "veritable act of spoilation." [36]

In 1918, the General Council passed another resolution stating that the registration system made "spoilation" impossible.[37] The resolution said that since many natives did not know how to read, the mere publication of the notice in the *Journal Officiel* seemed insufficient.

The extent to which natives have taken advantage of the privilege of registration under the 1906 decree was determined by an investigation made at the end of 1915. During the preceding nine years, a total of 1267 titles had been thus issued to natives, covering a total area of about 1220 hectares having a value of about 7,500,000 francs. Two hundred and fifty-one of these titles took the form of concessions from the government; but most of the remaining titles were granted to natives under the registration procedure. These figures showed that the natives took advantage of the right of registration chiefly in the cities—either so that they could sell to Europeans, or prevent the land from falling into the hands of the State. The report stated that "the mass of rural property, agricultural or pastoral lands remains in its primitive state of collective property." Many city natives also registered land so that they could borrow money on it. In Dakar and Cotonou, about three and a half million francs were advanced on such property. When land is once registered, it becomes impossible for the real native owner, if he is a different person from the native who has registered the property, to recover it. Likewise, the new owner may dispose of this property without any administrative control.

There are two main reasons for the failure to impose French property conceptions upon the natives of West Africa. The first is the ignorance and the indifference of the average native to European methods and conceptions. The second has been the attitude of the State. The fact that practically no natives in the rural districts have requested registration of their property would seem to show that for the present the family or communal system is generally satisfactory. As long as individual security continues to exist, despite the fact that ownership may rest in a group, the present system of property among the natives is not a handicap to production. The expense of registration and the complicated procedure operates against the use of the system by natives outside of the cities.

In 1923 Governor Poiret of New Guinea pointed out the weaknesses of the Torrens system [38] which in his opinion tended to destroy the primi-

[36] *Journal Officiel*, 1910, p. 9.
[37] *Conseil Général*, 1918, p. 109.
[38] *Recueil*, 1923, Part 2, p. 7.

tive native society. It was only gradually that private property could be safely developed. He declared that the real native farmers wished an individual title recognizing a right of user, particularly against Europeans who might otherwise haul them before a French court, the procedure of which they were ignorant. The Governor believed that the existence of native rights in the land should be established by the native tribunal, presided over by a French administrator. He shall make a careful inquiry of the collective and individual rights of the property in question, and then make a declaratory judgment of the rights of such and such a native as the representative of such and such a family. It would seem that this procedure is less formal than that of registration under the Torrens system; that it pays more attention to family and tribal rights; and that the act establishing these rights does not extinguish claims of other natives who may contest these rights before the native tribunal in the future.

Apparently as a result of the studies of the 1915 commission (which never made a formal report on account of the War), and of Governor Poiret's suggestion, the French Government introduced a new system of land titles in 1925,[39] which is to remain in effect for five years. In the report to the President in regard to this decree, the Minister of Colonies recognized that the registration régime had not been a success. The new decree imposes upon the native applicant for title the burden of proving ownership under native law. The procedure is more simple and less costly than under the former system. The new decree provides that titles issued under it have merely the same validity as contracts made under the decree of 1906 relating to native conventions,[40] and that the native tribunals (i.e., the administrators) may decide disputes in regard to such titles. Moreover, such titles may not be granted if the land in question is demanded by the State. It appears that while the 1906 decree is still in force henceforth the government will issue titles of this rather than of the Torrens type to the ordinary native applicant. The new decree, therefore, offers greater protection to the unlettered native than did the old system. But since the new titles lack definiteness, banks will not accept them as the basis of loans. During the first six months during which this decree was in effect in Senegal no applications for these new titles were made.

[39] Decree of October 8, 1925, *Journal Officiel de la République Française*, 1925, p. 9878. In his report the Minister said that the 1906 régime "n'a pas reçu des indigènes tout l'accueil qu'on en escomptait, par suite, semble-t-il, des difficultés qu'offre pour eux la complexité de la procédure établi et des frais qu'elle entraîne et, par suite, aussi des dispositions parfois contraires à leurs habitudes sociales."

[40] Cf. Vol. I, p. 1003.

5. *The State and the Unearned Increment*

The second reason why natives have not had their property registered has been the attitude of the State. It appears that the original purpose of Article 58 of the Decree of 1906 was to make it possible for owners under native law almost automatically to convert their property into ownership under French law. But the policy of the State now is to prevent the registration by natives of property which may be needed for government purposes.

Under the registration decree, it was originally provided that natives wishing to register their property should go first to the mayor or administrator and receive a certificate, after public inquiry, which established the conditions under which the property in question was held. Upon the basis of such certificates, registration would later be made. From the beginning, however, the government attempted to restrict the granting of these certificates, complaining that administrative officials were issuing them too freely.

Moreover, the Administration and the court have taken the position that these temporary certificates are administrative acts, the validity of which the courts cannot support against the government. Whether or not these shall be recognized depends upon the Administration alone.[41] The policy now is not to grant titles to natives, even if they own the land concerned under native law, if it is land which the State wishes to use, or which the natives do not effectively occupy.

Two motives have prompted the government in taking this interpretation of the law. The first is to save the government expense in taking over land at market rates—which would mean that the unearned increment would go to the natives, and not to the government. In a circular of May 8, 1907, the Governor-General of West Africa said: "It is our duty to favor the constitution of individual property so that the populations of French West Africa may secure the credit which they need. But this important innovation should not be accomplished at the expense of the superior interest of the State or of the Colony." Consequently, he thought that certificates should not be granted when the *interests* of the State or Colony were involved. "It would be regrettable if the proprietor-State were placed under the necessity of buying back lands at a price sometimes extremely high, after having registered such lands in the name of natives. . . ."

[41] Court of Appeal, *Arrêt* of December 29, 1916. The Council on Administrative Matters (May 9, 1918) ruled that the certificate was invalid because of the opposition of the state. Cf. P. Dareste, "Note sur le Développement de la Propriété Privée Indigène en Afrique Occidentale," *Congrès de l'Organisation Coloniale*, Marseilles, 1923, Vol. II, p. 218.

The second motive is to secure land without compensation for European colonization. A government circular says: "For a long time yet the natives will be too small in number and will lack the ability to develop the country. . . . Consequently, to realize our ends, we must make an appeal to European colonization and its capital. But nothing discourages this colonization more and irremediably compromises its development than to permit land speculation by inopportune measures. But this would be the result of accepting the native position in regard to land." In 1922, another circular declared [42] that France could not abandon the exclusive possession of the land to the natives who occupy only an infinitesimal part of it and who are incapable of developing it. The administration wishes to insure the best return from the soil in creating new sources of production, "and it desires to associate in this work all those who show themselves capable of collaborating in it, both natives and Europeans."

The purpose of the administration should be to diminish the extent of fallow land. When a request for a concession is made, the government should hold an inquiry as to the native rights involved. Natives holding titles in accordance either with custom or written law should be protected. But the examination of these titles should be "severe and rigorous." This statement apparently means that a native must hold a title from the French Government if his property is to be respected, since there are few if any tribes who issue titles under customary law.

Although the French system of land tenure thus stands in marked contrast to the British system in West Africa, it bears certain resemblances to British policy in parts of East and South Africa. While in South Africa, Rhodesia, and Kenya the British Government has attempted to relieve native insecurity caused by this system through the establishment of communal reserves, the French in West Africa have attempted to grant the "élite" security by granting them individual titles. The British system pays more attention to the group in contrast to the French system which emphasizes the rights of a certain class of individuals.

In the 1922 circular quoted above, the Governor-General stated that the chief in some tribes had divided up lands among his people; and it was legitimate that the French Government should now do the same thing—another indication that the French administration conceives itself to be the literal successor of the traditional rulers of the people. If native institutions are to be respected and native authority developed, it would seem that some control over the land should be returned to the chiefs and the groups which they represent.

[42] Circular "Au sujet de la mise en valeur du Domaine," *Journal Officiel*, 1922, p. 102.

CHAPTER 63

NATIVE OBLIGATIONS

1. *The Tax System*

EXCEPT for Togoland,[1] the French follow a head tax system, the rate of which, while it may vary according to district, is the same for all individuals within the district. This tax applies not only to all men but also to all women and children above the ages of eight, ten or fifteen depending upon the colony.[2] Natives in the military service, students, the aged without means, etc., are exempt. In the Upper Volta, a colony shut off from outside markets, the rate varies from two and a half to eight francs, while in the Niger Colony, where the natives have even less opportunity of making money, it varies from one to six francs. But in Dahomey, Senegal, and the Sudan, the head tax varies, according to region, from one to sixteen francs a year.

In many colonies such as Senegal, Mauretania, the Niger and the Sudan the French Administration also imposes taxes upon animals which affect practically every family among nomadic tribes,[3] and, so far as goats are concerned, virtually every sedentary family in West Africa. Those natives granted the privilege of carrying arms must pay a tax amounting to some thirty francs, while every native trader is subject to a "patent" tax ranging from seventy-five francs to fifteen hundred francs; and if he sells liquor, to a "license," the rate of which depends upon the size of the business. The caravan bands of the Niger and Sudan are likewise required to pay for the privilege of doing business. The per capita poll tax in French West Africa is twice that in the French mandates, and it is considerably higher, taking into consideration the internal value of the franc, than in British West Africa.[4]

[1] Cf. Vol. II, p. 319.

[2] The Colonial Council of Senegal passed a resolution increasing the age of exemption from eight to twelve, a resolution which the Governor-General refused to approve. The age was then fixed at ten. *Conseil Colonial,* December, 1921, p. 393. In Dahomey, the age is sixteen. In the Sudan, the age is eight.

[3] In Mauretania a *zekkat* tax, fixed at one-tenth of the value of the animals and an *achour* tax, which is a tithe of products grown (excepting gums) are imposed. Tribes paying these taxes are exempt from the head tax.

[4] Cf. Vol. I, p. 944.

In the assessment of taxes, the Service of Direct Contributions follows two methods. As far as French citizens in the colonies are concerned, whether white or black, individual tax rolls are prepared and individual receipts given—the "système nominatif." [5] In taxing ordinary native subjects, however, the "numeric" system is followed. Each village chief estimates the number of taxpayers and animals in his village, a figure which the *Commandant du Cercle* checks and which is inserted together with the total tax due according to these figures in a register. The village chief is responsible for the collection of this sum, for which he receives a rebate and a receipt.[6] In Senegal at the beginning of the year, the chief is also given sheets of tax tickets, equalling in number the taxes to be collected. At the end of the year, he is supposed to return the unused tickets. These tickets do not constitute individual tax receipts in the proper sense of the word. They do not contain the individual's name; and they are easily destroyed. No individual tax roll or individual records of these receipts are kept. An administrator on tour may ask a native to show his ticket. It is understood that the ticket system used in Senegal has not been employed in the other colonies for a number of years.

In these colonies the heads of families bring the sum which they owe to the village chief who turns it over, in their presence, to a government tax collector who gives him a receipt for the lump sum. If after paying their tax the people of a village wish to leave, they obtain a *laisser passer* from the administrator on which the fact is mentioned that they have paid their tax.

In Africa any system of taxation in which the chiefs participate may easily become the cover for illegal exactions. The French system of imposing lump sums upon villages is no exception to this rule. Chiefs have been accused of collecting taxes from natives without giving tickets.[7] Difficulties also arise when chiefs fail to report deaths or emigration because they wish to retain the percentage they obtain upon the total sum due when the village was originally assisted.[8] The abolition of these

[5] While in Senegal a citizen pays twelve francs personal tax and a six per cent tax on the rental value of property which he occupies, in the Sudan, each citizen is subject to a head tax of forty francs.

[6] Cf. Vol. I, p. 991.

[7] *Conseil Colonial,* December, 1920, p. 394.

[8] One recent French traveller comments on this system of assessment in French equatorial Africa as follows:

"Il nous parle également du recensement périmé, qui date de quatre ans; d'après l'equel sont taxés les villages, dont les habitants continuent à payer pour les morts (très nombreux par suite de la récurrente) et les fugitifs dont le nombre s'accroît chaque année, de sorte qui'il risque de ne rester bientot plus que les vieux, les impotents et infirmes, les niais, qui devront supporter, de par le fait des morts et des désertions, triple et jusqu'à quadruple charge, à payer pour les morts et les absents. . . .

percentages, a step taken already in other territories, is deserving of consideration.[9]

Despite the fact that taxes in Senegal are in theory exacted only from children above ten, chiefs are accused of exacting taxes from younger children because of the difficulty of correctly determining their age.[10] According to a government circular of June 6, 1921 (Senegal), the chiefs also steal from the government since the tax tickets returned to the government at the end of every year is lower by many thousand francs than the tickets which remained unused, judged by the tax money collected.[11] Since the French have been able to work out individual military recruiting tables, it should also be possible to introduce a system of individual tax rolls and receipts based upon these tables as far as the men are concerned.[12]

A number of natives have criticized the French system on the ground that the tax does not take into consideration capacity to pay. At the 1924 session of the Colonial Council, a leading chief criticized the head tax which he declared was unpopular, and advocated in its place a tax upon native farms based upon the old native tithe.[13] In 1921, the Finance Commission of the Council also pointed out that while the administration granted indemnities to French functionaries having families, it taxed natives with large families more heavily than bachelors simply because of the taxes upon women and children.[14]

Despite the fact that this opinion came from a body dominated by natives, it would appear that the ordinary native measures his wealth by the number of wives and children in his possession. From this standpoint a tax on individuals fits into his conception of ability to pay.

2. *Prestations*

In addition to taxes proper, each native in a French colony in Africa is subject to an annual labor tax called the prestation. Based upon the same principle as in many European countries, this tax requires a certain number of days of free labor for government purposes every year. The only legal basis of this exaction before 1912 was an *arrêté* authorizing the administrators to punish those who refused to perform work required

"'Si le recensement etait refait, dit-il, si chaque village était taxé d'après le nombre réel et actuel de ses habitants, il serait on ne peut plus facile de faire rentrer l'impôt, qui n'a rien d'excessif et que chaque indigène consentirait volontiers à payer. Personne ne songerait plus à s'enfuir.'" André Gide, "Voyage au Congo," Chapter VII, *Nouvelle Revue Française,* April 1, 1927, p. 488.

[9] Cf. Vol. I, p. 458.

[10] *Conseil Colonial,* December, 1921, p 394. Cf. *ibid.,* p. 242.

[11] *Ibid.,* p. 395.

[12] The difficulty of giving individual receipts to women and children is an additional reason for abolishing the tax upon them.

[13] *Conseil Colonial,* October, 1924, p. 309. [14] *Ibid.,* December, 1921, p. 249.

for public purposes with disciplinary penalties. In 1912, an *arrêté* putting the system of prestations on a more direct legal basis was promulgated.[15] In 1918, the Governor-General authorized the Lieutenant-Governors of each colony to apply the system.[16] While the number of days which may be imposed for such work in France is four, in the colonies of West Africa the maximum is twelve.[17] In West Africa, prestation labor may be used only for the maintenance of means of communication, such as roads, bridges, etc., and for the cleaning of wells, and work on telegraphic rights of way, in accordance with programs annually approved by Administrators and by the Governor of each colony. In French Equatorial Africa, prestations may also be used for the "establishment" as well as the maintenance of roads between villages and markets and for the construction of administration buildings when the difficulties of communication make the use of local material necessary. Only "adult" men are liable to prestations, while certain classes of natives, such as native functionaries, are exempt. Moreover, a few natives may redeem this labor tax by a money payment fixed by the Lieutenant-Governor. In Senegal the Colonial Council has secured this right of redemption for every native.[18]

In most British colonies the natives are obliged to work four weeks out of the year [19] for the purpose of maintaining village roads and paths, under the theory that this is a traditional obligation which their chiefs had enforced under native law. The period under which British natives may thus be required to work as a rule without payment is two or three times as long as the period demanded of French natives under the prestation system. In British colonies, this unpaid labor is not used for the main roads, but is employed locally under the chiefs acting under very little supervision. The whole system, as we have seen,[20] has been subject to a number of abuses, which make the abolition of the system desirable. In

[15] *Arrêté* of November 22, 1912, *Journal Officiel du Sénégal,* 1913, p. 71, and circular, *ibid.,* 1913, p. 949.

[16] *Arrêté* of September 23, 1918, *ibid.,* 1918, p. 476.

[17] Until 1921, the number of days in Senegal was twelve; the Colonial Council reduced it to four in 1922, but the administration intervened, and it was fixed at eight. *Conseil Colonial,* November, 1922, p. 45. In Senegal, an automobile owner must do or pay for four extra days of prestation on the theory that he uses the roads more than a pedestrian. In the Upper Volta, the number of days varies from six to ten; on the Ivory Coast it is twelve; in Dahomey, it varies from eight to twelve. In Sudan, the number of days is ten. The prestation régime in Mauretania and the Niger is regulated by a special *arrêté* of December 20, 1918. *Journal Officiel,* 1918, p. 679.

It appears that before 1925, women in Equatorial Africa were obliged to perform prestation work; but the obligation was abolished in the *arrêté* of January 7, 1925, printed in "Régime des Prestations en Afrique Equatoriale Française." *Bibliothèque Administrative,* No. 5 (1925), Brazzaville.

[18] The same rule is now followed in the two French mandates, cf. Vol. II, p. 320.

[19] Cf. Index, Communal Labor.

[20] Cf. Vol. I, p. 370.

French colonies prestations are imposed on the native, not as a traditional obligation, but as a duty of the subject to France. The work is under the strict control of the French administrator who draws up annually a program of works to be executed. Prestation labor is used for the maintenance, and sometimes, if illegally, for the construction of main highways—for work which in British colonies is usually performed by paid labor and under the direction of the Public Works Department. French natives ordinarily have been obliged to keep up village roads by unpaid labor in addition to furnishing prestations.

The desire to use prestation labor is increased by the fact that the construction and maintenance of roads in French territory is usually taken care of, not by the Public Works Department, but by the local administration. Thus about nine-tenths of the thirty-five thousand kilometers of roads in French West Africa have been built by political officers. Since little provision is made in the colonial budget for the payment of labor for this work, these officers inevitably rely upon prestations. In Senegal, prestation labor in 1923 consumed 4,969,840 days which decreased in 1924 to 3,762,841 days. While in French West Africa it is illegal to use such labor for construction work, there are many examples of this having been done as an examination of the minutes of the Council of Notables in the *cercles* of Dagna, Cayor, Dipupulou, Ziguinchor, and Sehiou and Bignon will show.[21] Thus, according to the annual report for the Ivory Coast for 1924, the "creation, thanks to prestation labor, of a system of automobile roads now covering the whole colony has had important political consequences." In one case, chiefs "came and offered men to finish a section of the road" and these men worked for twenty-eight days in December "without accepting any payment or indemnity for their efforts."

The greatest effort, however, was put forth in the construction of a military aviation field which required 331,763 man-days. For three months, natives were obliged to clear land covering an area six meters wide and two thousand four hundred kilometers long, all of which was done by the "good will of prestation labor"—which is unpaid. While there were a few volunteers, most of the natives did the work only "because it was imposed upon them." These fields are used by the aviation authorities only a couple of days a year. To maintain these fields, two hundred and forty thousand man-days a year are necessary. The report says that this work "which is much the most important effort we have

[21] *I.e.*, the road from Tivaoana to the frontier and the road from Meckhe to Pekesse were constructed by prestation labor, according to the Plan of Campaign of the Administrator in the *cercle* of Cayor.

ever demanded of our people is an irrefutable proof of the help which the Colony has never refused to give to the military authorites." In Equatorial Africa, prestation labor should in principle be used within the village; and no rations are provided during the prestation period, unless labor is obliged to work more than one day's march or thirty kilometers from home.[22] Likewise, it should not be called out during the harvest season since this would interfere with agricultural work.

Despite these general safeguards, abuses have occurred which have been described by the Governor-General of Equatorial Africa as follows: "One of the great reproaches which may be made against the prestations as generally organized, is that they have or appear only to have been exacted in the sole interest of the Administration; this is undoubtedly one of the most common reasons for the repugnance of the natives to executing these works. The construction of government posts, the establishment of important means of communication, the maintenance of telegraphic rights of way, for example, cannot give the natives employed on such work the impression that they are working for themselves. . . . On the other hand, the activity of district commissioners and of European officials generally manifests itself in the vicinity of their residence. The works affected by prestation labor are therefore numerous around government posts. . . . All of these circumstances lead the natives to see in prestations nothing more than *corvées* of no benefit to themselves, and they are incited to run away from the white man in order to escape from exactions and to establish themselves in regions more distant from European centers and transport lines." [23] For these reasons, the Governor-General declared that the prestation system should be restricted to cleaning up and establishing paths between native villages.

Members of the Colonial Council of Senegal have frequently pointed out that natives have been obliged to work far beyond the period set by law, that such labor has been called out during harvest time and that rations have not been given despite the fact that the work was performed long distances from home.[24] In one case, the administrator forced natives to swim to an island to cut timber instead of furnishing them with canoes, as a result of which three natives were drowned.[25] Extreme bitterness has marked the comments upon such incidents. One speaker declared that the deaths of a few natives now were only a drop in the bucket to the administration alongside those killed by the Kaiser's army. Another native declared that "acts such as these, when repeated again and again will drive

[22] *Arrêté* of January 7, 1925, Article 3.
[23] *Régime des Prestations, cited,* p. 7.
[24] *Conseil Colonial,* November, 1922, pp. 39, 41.
[25] *Ibid.,* October, 1923, p. 49. Cf. also *ibid.,* October, 1924, p. 309.

the natives to revolt against the French Authority for which legions of natives died at Champagne, Verdun, Alsace and in the Dardanelles. . . ." [26] In 1922, a member read a declaration to the Colonial Council saying that administrative officials deceived the Governor as to their actions. In the same year, the Colonial Council voted a resolution asking the administration to inquire into the abuses of the prestation system and to impose punishments if necessary.[27]

The burden of prestations does not bear evenly upon the population. For example, in the town of Kaolack in Senegal, the local population is subject in theory to prestations, but the public work is nevertheless done by outside farmers who are forced to leave their fields and to come to Kaolock for a week at a time, so that the local inhabitants will be available for European employment.[28] Each chief has complete discretion in furnishing prestation labor, and may therefore send forth the same men twice or three times and leave those friendly to him undisturbed. In the absence of prestation rolls, such as exist in Uganda,[29] the administration has no means of checking this type of abuse.

A discrimination also exists in the fact that a few privileged natives may redeem this labor obligation by the payment of what in some cases is a nominal sum. In 1922 the Senegal Administration proposed that the redemption price in the four communes should be four francs a day—which was about the market wage. This sum would, however, have increased the taxes of those who did not choose to work by thirty-two francs a year. A motion to reduce the rate to two francs a day was defeated by the vote of the chiefs, but in 1925 it was eventually fixed at this sum.[30] As a result, the natives in industry escape this obligation by the payment of only about half the wage that the prestation labor could earn on the market. Moreover, the government allows each commune to retain for its local budget all sums received from redemption fees. So far, however, because of other resources, none of the four communes has imposed the prestation tax on its inhabitants, with the result that in Senegal the system weighs only upon the subjects in the country. In 1921, the Colonial Council obliged the government to accept the principle that all natives in Senegal could redeem their prestations.[31] Elsewhere in French West Africa, only a few classes have this privilege. Political administrators and chiefs do not have the technical training necessary for the construction of roads even though culverts and bridges are taken care of by the Public Works Department.

[26] *Conseil Colonial,* October, 1923, p. 49.
[27] *Ibid.,* November, 1922, p. 44.
[28] *Ibid.,* October, 1923, p. 50.
[29] Cf. Vol. I, p. 584.
[30] *Conseil Colonial,* November, 1922, p. 51, and Deliberation of November 13, 1925.
[31] *Ibid.,* November, 1921, p. 245.

The road system in Senegal is noticeably bad. According to members of the Colonial Council, prestation laborers take four days to do what voluntary workers could accomplish in two.

Because of the many difficulties connected with this system, members of the Colonial Council in Senegal have proposed that the prestations be abolished in favor of a tax.[32] The French Administration opposed this suggestion, apparently on the ground that the labor supply would then be inadequate.[33]

3. *Requisitions*

It is the practice of French administrators to requisition food and grain from the natives in the vicinity for a number of purposes. In constructing the Congo-Ocean Railway, as well as the Cameroons extension,[34] the laborers required immense quantities of food which natives in the surrounding districts are obliged to grow. According to law, these requisitions should be paid for. But complaints have been made that in practice natives must furnish these supplies free.[35] In 1924, the Colonial Council passed a resolution that the government should no longer requisition millet, but that it should buy it on the open market. It was charged in some cases that to fill his requisition, the native was obliged to sell his grain reserve and then buy millet for his family at twice the price which he had received from the administration.[36]

4. *Compulsory Labor for Public Purposes*

In addition to prestation labor, which is unpaid, the government may oblige natives to perform service in return for payment. In practically all French colonies, it is the rule for the government to impress natives as porters. Likewise, forced labor in return for payment may be used in the construction of railways, ports, and similar enterprises. Sometimes conscription is openly imposed upon the native population by decree. Thus in 1926, a decree was enacted providing that the natives in the "second contingent" conscripted for the Colonial troops in Madagascar could be obliged to supply labor for the government for a period of three years. This work will presumably be devoted to public purposes.[37] In a report upon this decree, the Minister of Colonies said that this labor would develop the colony and would also do the natives good.

The Madagascar plan was applied to French West Africa at the end of the year. In a decree of October 31, 1926, the government provided

[32] *Conseil Colonial,* October, 1924, p. 307. [33] Cf. the next page.
[34] Cf. Vol. II, p. 321. [35] For the abuses in the Cameroons, cf. Vol. II, p. 321.
[36] *Conseil Colonial,* October, 1924, pp. 288, 221; *ibid.,* October, 1923, p. 48.
[37] Decree of June 3, 1926, *Journal Officiel de la République Française,* 1926, p. 6454. For the system of military conscription, cf. Vol. II, p. 11.

that the men in the "second portion" of the conscripted troops could during a period of three years be called upon to participate in works of general interest necessary to the economic development of the colony.[38]

In other parts of French Africa, the government, when it wishes to secure labor for public purposes, usually instructs local officials to recruit a certain number of men—ten thousand a year in the case of the Congo-Ocean Railway.[39] A less formal method of obtaining such labor is illustrated by the announcement of a district official at the meeting of the Council of Notables in the *cercle* of Tambacounda, in which he told the chiefs to furnish one hundred men in November and fifty men in December for the purpose of repairing the road bed of the Thiès-Niger Railway.[40]

The Upper Volta, inhabited by the Mossi people, has been a reservoir of labor upon which French railway construction has heavily drawn. Since the people of this colony have been isolated from the markets of the world, they have been obliged to seek employment abroad in order to pay their taxes. They are, moreover, good workers. If allowed to live their own life, these people, who have a strong social organization, would probably advance under proper encouragement as far as any other natives in Africa. But because of their qualities, thousands of them are called upon to labor a thousand miles from home—which is a disintegrating influence in their tribal life. Between 1921 and 1925, the Upper Volta furnished the Thiès-Kayes and the Ivory Coast railways with nearly forty-nine thousand men. In 1924, the Upper Volta Colony in addition employed men for a total of 312,814 man-days, not including prestation labor and other local labor. The government had considerable difficulty in recruiting these men because of the low wages and high death rate, particularly on the Ivory Coast Railway. As a result of the intervention of the Governor of the Upper Volta, wages were raised to one and a half francs a day, and rations improved.[41] The mortality rates for the men working on the construction of the Ivory Coast Railway are as follows:

		Morbidity	*Mortality per 1000*	
Year	*Effectives*	*%*	*Per Month*	*Per Year*
1923.....	3,491	1.90	3.5	42
1924.....	2,300	2.34	3.7	42.4
1925.....	2,057	2.82	2.5	30

[38] *Journal Officiel de la République Française,* 1926, p. 11852. The text of the Madagascar decree is printed in the appendix, Vol. II, p. 176.

The decree was promulgated in French West Africa in an *arrêté* of May 23, 1927, *Journal Officiel,* 1927, p. 431.

[39] Cf. Vol. II, p. 258.

[40] *Minutes* of October 16, 1925.

[41] Another dispute between the Upper Volta and Ivory Coast Governors was over the refusal of the latter to pay one hundred francs to the family of every man who died on the way home, the Governor interpreting the *arrêté* concerned to mean

While the rate was 12 per cent per thousand lower in 1925 than in 1923, it was still three times the rate of the Bas-Congo Railway.[42] The most serious situation in Africa exists in the Congo-Ocean Railway in Equatorial Africa where the death rate in 1925 was reported to be as high as six hundred per thousand.[43]

While labor employed on long-time jobs such as railways, is, as a rule, supposedly paid, abuses frequently occur in regard to the remuneration for other work. A member of the Colonial Council recently complained that the administrator in a certain district obliged the natives to work on the roads during the whole planting season—several months—for which period he paid them a lump sum of fifteen francs.[44]

To the visitor it appears that the labor exactions of the French Government are more severe than those of the British Government in neighboring colonies. This condition is due partly to the condition of the franc and to the present financial system under which French West Africa is financing the construction of public works out of current revenue. Under such a system, the administration is tempted to economize on labor costs. It is doubtful, however, whether the policy in the long run will be as cheap as a policy in which labor is voluntary and well-paid. At present the French administrators in West Africa requisition labor as they wish, subject to none of the legislative safeguards set up in British East Africa and Belgian Congo.[45] Consequently, many of them have become accustomed to rely upon the *corvée* for all of their labor wants, with the result that the establishment of a voluntary labor system becomes more and more remote.[46]

that it should be paid only for men who died at work. The Governor-General finally intervened, and required payments in the former case to be made.

[42] The problem of feeding men under such employment is discussed by A. Gauducheau, "Sur la nourriture naturelle de l'homme d'après l'observation d'usages alimentaires exotiques primitifs," *Bulletin de la Société de Pathologie Exotique,* Vol. 18 (1925,) p. 368.

The medical attention given to labor (including Kru labor) employed by the government as well as private enterprise is discussed by G. Bouffard, "Protection Sanitaire de la main d'œuvre indigène en Côte d'Ivoire," *Bulletin de la Société de l'Ouest-Africain,* April 5, 1925, p. 439. This Bulletin is printed in the volume of the *Société de Pathologie Exotique,* above cited.

[43] Cf. Vol. II, p. 258.

[44] *Conseil Colonial,* November, 1922, p. 41.

[45] Cf. Vol. II, pp. 499 ff.

[46] The recruiting of labor for private enterprise is discussed on p. 27, Vol. II.

The general effect of this whole policy has been described by Mme. Lucie Cousturier, in a report to the Minister of Colonies, after an investigation in regard to native family life in West Africa, as follows:

"Ce mal [des indigènes] qu'ils exposent comme une plaie, c'est le désespoir d'améliorer leur situation vis-à-vis des étrangers. Or, parmi les obstacles à cette amelioration, les uns citent l'administration française, les autres citent les institutions indigènes, et ils n'ont peut-être pas tort, ni les uns ni les autres, car actuellement rien dans le joug familial ou métropolitain, n'est favorable aux noirs pour la

concurrence économique, tout au contraire, est favorable aux trafiquants de toute nationalité: français, anglais, américains; grecs et syriens particulièrement.

"Le capitalisme des étrangers leur permet de recueillir de ramasser les moindres sommes que les noirs, communistes, laissent échapper et de les drainer sans retour vers leurs établissements métropolitains. Car drainer ne serait rien, le pillage meme par les implantes ne serait rien. . . . Malheureusement les blancs, enrichis aux colonies, n'y déversent rien; ils y vivent dans une avarice sordide et emportent leurs capit aux amassés pour les dépenser dans leur métropole respective.

. . . "Il en résulte que toute activité des blancs en A.O.F. ne s'exerce que dans le sens de la succion. Les ports et autres centres commerciaux creés en A.O.F. aspirent la sève indigène mais ne la refoulent pas; ils ne sont pas tels qu'un coeur qui doit recevoir le sang contenu dans un organisme et le lui restituer sous un aspect nouveau et vivifiant; ils sont tels qu'une blessure ouverte de laquelle la vie s'échappe à jamais.

"C'est pour cela que je n'ai pu trouver de véritable abondance et vitalité que dans les régions montagneuses, les moins facilement accesibles, chez les Tomas, les Guerzés, indemnes de la concurrence de nos mercantis, tandis que dans les régions proches de nos voies de communication les plus fréquentées et les plus rapides, fluvi ales ou ferrées, les ressources indigènes s'épuisent le plus profondément. Il est donc à présumer que les magnifiques travaux projetés, qui devraient assurer dans un avenir rapproché, la productivité intense des terres les plus lointaines, ne serviront, si on n'y prend garde, qu'a faire disparaitre la population plus vite." This section of the report is printed in *Les Continents* for October 1, 1924.

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